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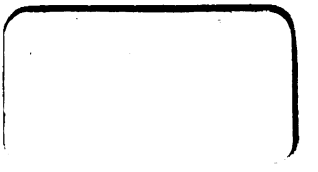

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CONSIDERATIONS

ON THE

POLITY of ENTAILS

IN A

NATION.

By JOHN DALRYMPLE, Esq;

SECOND EDITION, CORRECTED and ENLARGED.

EDINBURGH,

Printed for A. KINCAID & J. BELL.

M DCC LXV.

To the RIGHT HONOURABLE

Mr. *CHARLES YORK*,

SIR,

I HAVE the honour to beg your acceptance of theſe Papers, though uncertain whether the opinions contained in them are agreeable to yours; and perhaps afraid that they are not.

To pretend to give up one's ſentiments in compliment to thoſe of another, is meanneſs in a man; but in a friend it is a crime. I am vain the world ſhould know, that I have this laſt for my apology, in caſe the opinions I have formed ſhould be ſo unfortunate as to differ from your's.

YOUR

YOUR depth in the principles of law and polity; your love of, and taſte in ſcience and letters; the obligations I owe you; and above all, that perſonal and unaffected reſpect which I have for you; make me think it a duty I owe to you, and to myſelf, to dedicate the following ſheets to your name.

I HAVE the honour to be, with the higheſt gratitude and reſpect,

Your obliged and

obedient Servant,

JOHN DALRYMPLE.

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CONSIDERATIONS

ON THE

POLITY of ENTAILS

CHAP. I.

Occaſion of the following Conſiderations.

AN entail, and the reſtraints laid upon the heirs under it by the perſon who creates the entail, are very ſeparate things, and merit very different conſiderations.

An entail to laſt for endurance, is no more than a private family ſettlement, by which the maker of the entail provides, that a certain income ſhall iſſue out of his eſtate for the ſupport of the heirs whom he appoints to ſucceed to him, however remote in time or in ſucceſſion they may ariſe. It is erroneous to call a ſettlement of this kind a perpetuity: for the entail ends as ſoon as the heirs

under it are at an end; and in the perſon of the laſt heir, the eſtate returns to be ſubject to the ſame regulations of law, which take place with reſpect to other eſtates.

The reſtraints put upon the tenant in tail by the will of the entailer, all of which that tenant is bound to obey by taking the eſtate, may be as various as the views, either reaſonable or unreaſonable, of mankind, in projecting to make the income of the eſtate ſecure to the heir. It is only where the reſtraints are unreaſonable, That they ſhould be prohibited by law; as when the tenant in tail is reſtrained from giving a jointure to his wife, from granting leaſes, and ſuch like, where both the private and public intereſts are hurt by the reſtraint.

Such reſtraints in the entails of Scotland are many, and pernicious; but few men, in judging of the polity of this kind of ſettlement, diſtinguiſh betwixt entails themſelves, and the improper conditions contained in them; and therefore, it is not to be wondered at, that, while many people in Scotland are exceeding fond of, many are equally averſe to this inſtitution. But to deſtroy entails, becauſe there are unjuſt

and

and unpolitical reſtraints in many of them, is much the ſame, as if a man was to cut off his arm, becauſe two or three of his fingers ached; let the fingers be healed, the arm will remain an uſeful member; let improper reſtraints in entails be prohibited by law, and entails will perhaps be found, in the preſent ſtate of Britain, to be a political good.

A propoſal was lately made to the body of lawyers in Scotland, to take meaſures for an application to parliament to amend the Scotch law of entails.

In conſequence of which, a committee was named by them, to frame a bill for that purpoſe.

What alterations ſhould be made upon the law of entails, was not ſuggeſted to this committee, by thoſe who appointed it; only the committee were directed, that if the intention of the bill they ſhould frame was to deſtroy entails, they ſhould take care to frame it ſo, as not to hurt the intereſts of heirs, either in the direct or collateral line, exiſting at the date of paſſing the ſtatute to be ſought.

The committee reported a bill to be offered to the judges, counties, and burrows, for

for their approbation; the general plan of which bill was, that the preſent entails ſhould ceaſe with the lives of the poſſeſſors and heirs exiſting at the time of the act; and that, for the future, no entail ſhould be made to bind any others than the perſons exiſting at the date of making ſuch entail.

The effect of the bill *, if paſſed into a law, would be, that ſome of the preſent entails

* The inſtruction of the body of lawyers to their committee, to contrive their bill ſo, as not to hurt the intereſts of the heirs now exiſting; and the care taken in the bill not to hurt thoſe intereſts, was political, with regard to the public intereſt—was juſt, with regard to individuals—and was founded on legiſlative precedent.—*It was political, with regard to the public intereſt:* for had all the entailed land of Scotland been thrown now, and at once, into the capacity of being brought into market, the ſuddenneſs of the revolution, and the infallible glut in that market, from the overplus quantity of commodity brought into it, would have occaſioned a moſt important and immediate loſs, both to the commercial and landed intereſt of Scotland.—*It was juſt, with reſpect to individuals:* for there is ſeldom ſuch proviſion made in marriage articles, for ſecurity of the heir of the marriage, where the huſband has his eſtate entailed, or is immediate heir under one, as is commonly done when the eſtate is not entailed. Where the eſtate is entailed, the heir of the marriage is deemed ſufficiently ſecure by the entail. And therefore, it is but a juſt tenderneſs to a woman, married to one in ſuch a ſituation, and a juſt tenderneſs to her children, that no new ſupervenient law ſhould be allowed

to

entails would fall very ſoon, one half would be ſunk in twenty years, and nine tenths of them in fifty or ſixty.

This bill having been lately approved by a majority of the body of lawyers, the contents of it have been ſince printed in the news-papers, and other public vehicles of that ſort, by authority, and the attention of the public is called to it.

The Gentlemen who have made that call, have done their duty; for the ſubject well merits all the attention that can be beſtowed on it. Revolutions in the laws of land-property, are ever attended with important conſequences; and therefore, before they are made, it behoves men well to look forward, and examine whether theſe conſequences will be good as they wiſh, or may be

to bring diſappointment upon her and their expectations; thoſe expectations, which the law either ought never to have countenanced, or ought not to daſh to the ground, when raiſed upon its own faith.—*It was founded on legiſlative precedent*; for when the ſtatute of the 7th of Queen Anne, ſubjected the Scotch entails to the Engliſh laws of forfeiture, there was a particular exception made in favour of the iſſue of thoſe married at the time of paſſing the act: The tenderneſs of law to women who had entered into marriage with men whoſe eſtates were ſo ſeemingly ſecure from thoſe laws, and to the iſſue of thoſe women, created, with equal juſtice and mercy, the exception.

be bad, as they may not foreſee; and in ſo doing, their thoughts muſt not be narrowed to one object, nor ſuperficial, nor implicitly taken up, but muſt comprehend a variety of relations, muſt be deep, and muſt be weighed with independence of thought.

Upon this occaſion, I think it both my right, and my duty, to give my ſentiments to the public: It is my chance in life to have a larger intereſt in entails than any of the other commoners of Scotland have, a very few excepted: and I find many men of birth, fortune, and good ſenſe, who think with regard to them as I do.—A train of inquiry * I was engaged in ſome years ago, will ſhew, that I had thought on this ſubject, before the preſent meaſure was propoſed; reflection has ſince confirmed me in the opinion which I then formed:—If I err, my errors ariſe not from thinking too little, but from having thought perhaps too much upon the ſubject.

The intention of the following conſiderations is, firſt to ſhew, that the deſtruction of entails is, in the preſent ſituation of Britain, not expedient.

And

* Hiſtory of feudal property.

And ſecondly, to point out the improper conditions in entails which ought to be prohibited by law.

If the principles which prove that entails to a far greater extent than they yet prevail, are expedient in Scotland, ſhould ſhew that they would be expedient though received to the ſame extent in England, I cannot help it: the ſame principles will affect all nations in the ſame circumſtances. But though I wiſh to ſearch for truth as a philoſopher, and to aſſert it as a man, I have no inclination to expoſe myſelf to the ridicule which attends a projector; and therefore, when I ſpeak of the polity, perhaps proper for England, on this ſubject, I mean thereby only to eſtabliſh my own argument concerning the polity of Scotland.

CHAP. II.

Firſt Conſequence of letting Entails die out.

A Law propoſed, which is to break in upon the wills of private perſons, and to break down family-ſettlements, ſhould never be adopted by legiſlation, except from a very

ry unqueſtionable expediency; becauſe, until ſuch ſettlements hurt the public intereſt, the public has, if I may be pardoned the expreſſion, no juſt title to meddle in them. It may be very fooliſh in individuals to think of making their names and families perpetual, when Providence has determined that all names and families ſhall have an end; but, if individuals are happy in that imagination, the State may very well allow them to enjoy their folly, ſo long as it hurts not the State.

Now, one of the beſt ways to know, whether a particular branch of polity hurts or does not hurt a country, is to examine the conſequences which would follow, if that branch of polity was cut off.

If entails, as propoſed by the bill, were allowed to die out, I imagine the following conſequences would follow.

> " Firſt conſequence: All the land-pro-
> " perty of Scotland would ſink in its
> " ſolid value, by which I mean its
> " value upon a ſale."

The price of land is regulated by the quantum of it in the market, compounded with the quantum of the demand. Buyers

of

buyers of land are like buyers of any other ſubject of traffick: where there are many ſellers, there will always be cheap bidders. The entailed property of Scotland is about a fifth of the land-rent; therefore, according to the common rules of calculation, a fifth more of land-property ſhould fall into the market upon the diſſolution of entails, than is in it at preſent. But this computation is by far too low; moſt men of entailed eſtates, are in ſtraitened circumſtances; becauſe, in theſe days of general extravagance, moſt of them live above their income: the conſequence is, that a greater proportion of entailed lands will be offered for ſale, to relieve the ſtraits of their proprietors, than otherwiſe ſhould be naturally offered, according to the proportions betwixt entailed and unentailed property. There is to be ſold at preſent, in the county where I write *, an hundred thouſand pounds worth of land, and in the other counties of Scotland, as I have heard, five hundred thouſand pounds worth more; and we in Scotland very well know, that there is a difficulty to find purchaſers every where. Now, if a quantity of entailed land, larger than ought naturally to have been expected

* Mid-Lothian.

from the proportions betwixt entailed and unentailed property, ſhould be thrown into a market already overglutted, is it not plain, that it would ſink the value of whatever ſhall be brought into that market? It would take the value of ſeveral years purchaſe out of every landed man's pocket upon a ſale of his eſtate.

Merchants obſerve, that, if the commodity in market is diminiſhed one-third beneath its mean quantity, it will be nearly doubled in value; and that, if it is augmented one-third above its mean quantity, it will ſink near one-half in its value; and that, by further diminiſhing or augmenting the quantity, theſe diſproportions between the quantity and prices vaſtly increaſe. To be ſure theſe rules will not hold good in the value of that commodity called land, in Britain at leaſt; but it is ſelf-evident, that the diſſolution of entails will, to a certain extent, and that not a ſmall one, hurt the value of all the unentailed land-property of Scotland.

That many of thoſe who are under entails ſhould deſire to get rid of their fetters, is not to be wondered at: But that men, whoſe land eſtates are not entailed, ſhould deſire, at their own expence, to relieve their entail-

ed

ed neighbours, is diſintereſted and heroic in this age indeed!

It is ſaid, that, if our entails were deſtroyed, and the lands under them offered to ſale, our neighbours in England would ſend mountains of gold to purchaſe our eſtates. I believe it is true; for, whenever our lands tumble down to twenty-one or twenty-two years purchaſe, they will buy them faſt enough. But, if the money ſhould be thereby withdrawn from the commerce, or the public funds of England, the advantage would not be great to England; and, if the Engliſh were to draw the land-rents of Scotland, the advantage perhaps would not be much greater to Scotland.

CHAP. III.

Second Conſequence of letting Entails die out.

"SECOND conſequence. Money would riſe in its value, or, in other words, the intereſt of money would be heightened.

One of the greateſt commercial misfortunes that can befal a nation, is a fall in the price of lands; becauſe the low price of land

is

is always attended with the high rate of intereſt. Betwixt theſe two there is an inſeparable connexion: They are like two buckets drawing water, when the one ſinks the other mounts. It has been maintained by ſome, though very erroneouſly, that the lowering of intereſt does not conſtantly raiſe the price of land; but no body was ever ſo wrong-headed as to doubt, that lowering the price of land muſt conſtantly raiſe the intereſt of money. If a man can get one-fifth more of land-rent for one thouſand pounds than he uſed formerly to get, he certainly will not lend out his one thouſand pounds, unleſs he is to get one-fifth more at leaſt, of intereſt for it. In England *, in the year 1620, land ſold at twelve years purchaſe: Intereſt was then at ten *per cent.* In the year 1670, land ſold at near twenty years purchaſe: The intereſt of money was then at ſix *per cent.* Since that period, the price of land has gradually riſen, and the current rate of intereſt has as gradually fallen. If deſtroying entails then will ſink the value of land, the concluſion is direct, that it muſt raiſe the rate of intereſt.

Additional conſiderations confirm the truth of this general concluſion.

The

* Sir Joſiah Child.

The value of money, upon the ſame principles as that of land, is regulated by the quantum which the lender is ready to lend out, compounded with the quantum of the demand of the borrower; or, in other words, with reſpect to this laſt, the number and extent of the uſes which the borrower has for it. Intereſt of money is high in Great Britain, relatively to ſome other commercial States of Europe; becauſe there are four great vents to be ſupplied by, and to create a demand for it, namely, the purchaſe of land, the purchaſe of ſtocks, the diſſipation of the extravagant, and the uſes of commerce: through theſe, the ſums demanded to be borrowed come to exceed the ſums wanted to be lent; the conſequence muſt be, that he who has money to give out to uſe, will always be ſure of a large intereſt for it, from people who want it for one, or other, or perhaps all of thoſe purpoſes. But ſuppoſe great part of the land-property of Britain was entailed, in conſequence of a toleration to entail, two of thoſe ſources of demand would be diminiſhed, *viz.* the call for money to purchaſe land, and the call for money to ſquander; becauſe, people would not be fond of borrowing money to purchaſe land

land at a high price, and men under entails cannot ſquander more than their annual revenue. What would be conſequence of this to the money-lender? The conſequence would be, that his money would regorge in his poſſeſſion, and he would be contented to take a leſs intereſt for it; becauſe he would then have almoſt only the merchant or the public to apply to, for taking it off his hands. Thus, both the trader and the State would borrow cheaper than they do at preſent; the one for the advantage of the commercial, and the other for the advantage of the political intereſts of the nation. In the very ſame manner, a ſcheme which tends to increaſe the quantity of land in the market, ſuch as deſtroying entails, enlarges two of the ſources of demand for money, ariſing from the natural inclination of all men to purchaſe land as ſoon as it becomes cheap; and in thouſands of men to borrow and to ſquander, as long as they can get credit for a guinea, or have an acre to mortgage. The money-lender marks well the enlargement of theſe ſources; he takes advantage of them; he demands more for the uſe of his money; and his demand as ſoon as made, muſt be complied with.

Facts

Facts always correſpond to true principles: obſerve the rate of intereſt, where there has been an over-ſtock, or under-ſtock of land, in circulation. Begin with the firſt.

The intereſt of money was as high in Queen Elizabeth's reign, as it ever was at any * former period of the Engliſh hiſtory. Yet, in the ordinary courſe of things, it ought to have been much lower; for the nation had, during her reign, acquired great wealth by commerce, by plunder, and by the parſimony of the Sovereign; the Indies too had been diſcovered, and the ſilver of the one India had not yet found its way, at leaſt to any conſiderable extent, into the other; ſo that every thing contributed to have lowered the intereſt of money. How then came it to be ſo high † as ten *per cent.* in the end of Elizabeth's reign? Obviouſly, on account of the great quantity of land thrown lately into market. The entailed lands of the

* I obſerve it ſaid in ſome books upon trade, that the common rate of intereſt was at 10 or 12 *per cent.* at periods prior to Elizabeth's reign. There are indeed a few inſtances, where 12 *per cent.* was paid upon preſſing occaſions: But I cannot find any authority from *Record*, for ſaying that the current rate of it was *ever ſo high* as 12 *per cent*; tho' I have been at a good deal of pains to find it out.

† Statute-book, Anno 39. Reg. Elizabeth. cap. 18.

the old families were falling every day into commerce, in conſequence of the latitude given by the ſtatute of Henry VII. the lands of the church had been alienated by Henry VIII. and the lands of the crown had been alienated by Elizabeth, either to ſpare the burden of taxes to her people; or, to ſpare to herſelf the burden of asking them. The quantity of land, from theſe three cauſes, in circulation, made an extraordinary demand for money; and this demand kept money at an unnatural height of intereſt.—It is true, there was a ſecond demand for money, to maintain the efforts of trade and manufactures which were puſhed with vigour in this reign: Similar efforts, however, were made both in France and Holland, at the ſame period; and yet the legal intereſt of money in France, in the reign of Elizabeth's contemporary Henry IV. was ordered by an edict of the King to be ſo low as ſix and a quarter *per cent.* and was much lower in Holland at the ſame period in its current rate.

Mark the rate of intereſt, on the other hand, where there is an under-ſtock of land in circulation. Holland is the country in the world, where there is the leaſt land, in proportion to the numbers of inhabitants, and the leaſt extravagance, in proportion to the

the wealth of thoſe inhabitants. What are the conſequences of this vacuity in thoſe two ſources of demand for money? An immenſe private credit at a lower intereſt than in any part of Europe; and a public credit which, within leſs than a century of the eſtabliſhment of the Dutch commonwealth, was carried to an amazing height.

There is yet another reaſon, why the diſſolution of entails would have a tendency to raiſe the intereſt of money. There are two claſſes of borrowers; thoſe who borrow with an intention to turn the money to account, and thoſe who borrow to ſpend it. The former may be called the merchants, the latter the ſpendthrifts; and the chief of this laſt claſs are the gentlemen or the landed-men, who, from their habits of pleaſure, and ideas of ſuperiority, are, in all nations, prone to expence. When theſe two claſſes of men appear (if I may be pardoned the figure) at the money-market, the merchants can give no more for money than what the profits of their trade can bear; but the gentlemen or landed-men who want to ſupply their pleaſures, take it at whatever price they can get it; and therefore, theſe laſt, by their high offers, diſturb the

proportion between the rate of intereſt and profits upon trade. But the effect of entails is, to drive from the money-market thoſe who are moſt apt to raiſe it: when that is done, the intereſt of money falls to its own natural level. Whereas, if entails are diſſolved, thoſe who quit the money-market, with reluctance, will again crowd into it, and then the intereſt of money will riſe above its natural level.

Now, if it be true, that the increaſe of the quantity of land-property offered for ſale, tends to heighten the intereſt of money: can it be thought that ſchemes which drag land into a glutted market will be of advantage to a trading nation like Britain? Trade is a trial, or competition, who ſhall ſell commodity cheapeſt; and money is the inſtrument of that competition. Whatever nation has money cheap, can, *cæteris paribus*, always underſell that nation which has money dear. The lowneſs of intereſt too, not only encourages thouſands to enter into trade; but it forces thoſe who would otherwiſe live upon the intereſt of their money, to become traders. Many other advantages * to a nation follow from it. Look at the progreſs of trade theſe three hundred years back in Europe;

* Vid. Sir Joſiah Child.

rope; and it will be found to bear a proportion exact, regular, and without any, even the minuteſt variation, to the rate of the intereſt of money. In every nation where it has been high, trade has been always low: in every nation where it has been low, trade has always flouriſhed.

I know it will be ſaid, the voice of trade cries loudly againſt entails; and that what ſhe calls for cannot be againſt her own intereſt. But there is a very ſolid diſtinction, tho' not always attended to, betwixt trading men on the one hand, who, by continuing in trade are ſerving their country; and monied men, on the other, who have either left off trade, or who have never had any connection with trade; the former of whom retaining, and the latter aſſuming her livery, and both counterfeiting her voice, want only to ſerve themſelves. The voice of trading men, muſt always be, if they think at all, for the high price of land, and the low price of money; becauſe by theſe only, they have the command of money, and at an eaſy rate of intereſt. The voice of monied men indeed, will be always for every ſcheme which can make land cheap and money dear; becauſe through

through theſe they will be enabled to purchaſe the one, and lend out the other, to ſo much the greater advantage to themſelves. But the nation will conſider, which of theſe intereſts it ought moſt to attend to; and if the voice of the former, ſhould by miſtake join itſelf to the clamours of the latter, like a bad hound who yelps and follows, tho' he neither ſees nor ſcents, the conſiderate will ſee the miſtake, tho' the inattentive do not.

Another national conſideration is to be attended to. It is by the lowneſs of intereſt that the nation has been enabled to ſupport debts, and to exert force, which have aſtoniſhed mankind; and it is by the ſame lowneſs of intereſt alone, that ſhe can be preſerved from feeling the miſchievous effects of them. Public credit is become an object to Britain, almoſt as important as the intereſts of her commerce: but taxed almoſt to the full, ſhe can bear with difficulty more taxes; and tho' the produce of her funds will riſe with the increaſe of her trade, the expences of government, to protect that trade, muſt riſe with them. There is perhaps only one certain means, by which ſhe can always be ſecure of again raiſing her millions

in

in the hour of need; and that is, by following ſuch plans of policy, as will enable her, without violence, to lower the intereſt of money upon her public debts; becauſe by that meaſure, the produce of the old taxes will always pay the intereſt of a large additional capital borrowed upon them. *De Wit* opened a way for paying fourteen millions of debt to the Dutch in twenty one years by this meaſure. Mr. Pelham enlarged the powers of the nation without enlarging the burdens upon individuals, in the ſame manner. Theſe were great men, and circumſtances favoured them; but follow ſchemes which tend to heighten the value of money, and the meaſure becomes impoſſible, even to the ableſt of miniſters, and in the moſt fortunate of circumſtances.

At a period when peace has juſt been eſtabliſhed; when there has been conqueſt abroad, and proſperity at home; and when there is capacity and virtue upon the throne, and induſtry and œconomy in adminiſtration; it was to have been expected, that the price of ſtocks ſhould have riſen, that is, that the price of money ſhould have fallen: but the very reverſe has happened; not from accident; not from combination; to impute it

to

to the former of theſe, is too ſhallow, and to the latter, is too refined a thought; but from this obvious and ſimple cauſe, that there is a great and unuſual demand for money from many quarters; the certain conſequence of which muſt be, that the price of money muſt be high. At ſuch a period, to create additional demands for money, where they do not ariſe naturally of themſelves, is to add to the dangers and diſtreſſes of the State. If it is an error to think favourably of entails at other times; it is perhaps *at preſent* not altogether inexcuſable.

CHAP. IV.

Third Conſequence of letting Entails die out.

"THIRD conſequence. Money would be withdrawn from commerce to purchaſe land, and thereby commerce would be hurt."

If land is cheap in a country, merchants will withdraw their ſtocks from trade, and lay them out upon land. If the intereſt of money is high, they will be ſtill more apt to

to do ſo. No man will truſt to uncertain debtors, and winds and ſeas, when he finds, that his profits upon land, from the cheapneſs of it, are nearly equal to the profits upon trade, from the dearneſs of money. If deſtroying entails tends to ſink the value of land, and to raiſe the value of money, is it not obvious, that ſuch a meaſure muſt be detrimental to commerce? The political practical *De Wit*, and the philoſophical abſtract *Locke*, equally agree, that a chief advantage for trade which Holland has over other nations, is, that ſhe has but little land to withdraw her traders from commerce. Even this little is made leſs by the laws of that country, which partly create incapacities in people to diſinherit their children beyond a certain extent, partly allow it to be locked up by *fidei commiſſa*, and partly ſo load it with taxes, that nobody will buy it.

Tyre, Athens, Corinth, Rhodes, Marſeilles, Carthage, Venice, Genoa, Holland, Hamburgh, Dantzick, are examples which prove, that trade thrives moſt where there is leaſt land belonging to a trading people. The commerce of France, is chiefly carried on by Huguenots, and of Ireland by Roman Catholicks; merely on account of their incapa-

capacities to hold land-property, or at leaſt to hold it to advantage. The example of the Jews, in all modern nations and ages, ſhows, that money property is accumulated, juſt in proportion as thoſe in purſuit of it are removed from connection with the property of land.

If there is a people on earth ſtanding in need of, and wiſhing for an extenſion of her commerce, who ought to reflect on thoſe examples, it is the Scotch; becauſe it is the rage of the national character to run to the purchaſe of land at home, as ſoon as they can get a little money wherewithal to do it. A Dutchman does not think of quitting trade, till he has made an eſtate for every child; and does not quit it even then: an Engliſhman does not retire from it, till he he has made an eſtate for his eldeſt ſon at leaſt: but a Scotchman in Scotland runs from trade to the country, as ſoon as he has made a miſerable pittance for himſelf. Is this laſt a country in which laws ſhould be contrived to invite and to puſh traders out of their way, when they are too apt of themſelves to go aſtray? Could the laws of Scotland, like thoſe of the antient Egyptians, determine the profeſſions of the ſubject, it would be

be better that the trading part of our countrymen were obliged to continue in trade from father to ſon; as the Venetians and Genoeſe once did, and as the Hollanders ſtill do.

Money withdrawn from trade to land, tho' not loſt in itſelf, is yet loſt to trade; it finds its way very ſlowly back from the new hands that receive it, into its former buſy regions: for very * few people ſell their lands to turn merchants; almoſt none ſell but to pay debt, or to run into it.

Now, when our trade once begins to go away, our wealth will ſoon, very ſoon, follow: and then all of what Mr. *Locke* calls "Our contrivance among ourſelves, and "ſhuffling the little money we have from "one another's hands," will not bring it

* Hear Mr. *Locke* upon this head: "If art or chance has "made it faſhionable for men to live beyond their eſtates, "debts will encreaſe and multiply and draw with them, firſt, "neceſſity of incumbering, and then ſelling their eſtates." "I think there is ſcarce one in an hundred that thinks of ſell-"ing his patrimony, till mortgages have pretty well eat in-"to the freehold; and the weight of growing debts force a "man, whether he will or no, out of his poſſeſſions. When "almoſt is there ever a clear and unincumbered eſtate ſet to "ſell? *'Tis ſeldom a thriving man turns his land into money, "to make the greater advantage:* The examples of it are ſo "rare, that they are ſcarce of any conſideration in the num-"ber of ſellers."——*Locke's conſideratians*, p. 27.

back. The fine word, *circulation*, will not arreſt wealth in its retreat from a country whoſe commerce is injured in the deſertion of her beſt friends. The money at a gaming-table is conſtantly circulating; for it is tumbled up and down, and changes its maſter at every throw of a dye; yet for all this, it lies perfectly ſtill as to the public; and juſt in the ſame manner the circulation of land from one landed bankrupt to another, may enrich or impoveriſh individuals in their turns, but will never recover or retain one farthing of the nation's ſtock of wealth, when trade is gone, or going from it. Nor will the frequency of the transfer add, as is vainly imagined, even to the improvement of lands. Circulation of land will no more add to its improvement, than circulating a rouleau of guineas will add to their weight; for to make improvements in a ſoil and climate like ours, national wealth is required, and to conſume or export the produce of them, national commerce is equally neceſſary.

CHAP.

CHAP. V.

Fourth Conſequence of letting Entails die out.

"FOURTH conſequence. Exportations would decreaſe, and home-conſumption and importations increaſe."

Before tracing the chain of cauſes and effects which lead to this conſequence, I beg leave to lay down a poſition, the connection of which with the reflections that are to follow it, will be, I flatter myſelf, not difficult to be ſeen.

A man who has a land-eſtate of £. 1000 a year not entailed, may ſpend betwixt £. 20,000, and £. 30,000 within the compaſs of a year, in waſte, or even in the change of modes; but a man who has £. 1000 a year entailed, cannot ſpend much more than his £. 1000 within that ſpace; becauſe no body will give him credit for much more.

SECT. I.

Miſchievous effects of a diſſipation that is deſultory.

There are three great claſſes of people in every extenſive nation; the induſtrious, who raiſe

raiſe all the neceſſaries and luxuries of life; the luxurious, who conſume part of the produce of the induſtry of the former; and the merchants, who, among their other employments, export the remainder of what is not conſumed by the two former claſſes. Thus, the produce of the induſtry of the firſt of theſe claſſes, is either conſumed at home, or exported abroad. When it is exported, our induſtrious are maintained by our neighbours; when it is conſumed at home, they are maintained by ourſelves: in the firſt of theſe caſes, the induſtry of the poor makes the nation rich; in the laſt of them, it only makes the nation luxurious at firſt, and poor in the end.

Conſequences in the moral and political, are as abſolute as in the natural world: the diſſipation of private fortunes is attended with exceſs in home conſumption. And there are three ſteps marked and preciſe, which, in the indulgence of this diſſipation, lead, through the prodigality of individuals, to national poverty.

I. The articles produced by the induſtry and ingenuity of the artiſan, for the uſe of the luxurious conſumer at home, are expenſive, and the wages of thoſe who furniſh

them

them are high; articles exported, on the contrary, whether rough materials or manufactured are cheap, and the wages of thoſe who furniſh them are low: the reaſon is, that the luxurious part of our people being wealthier and more prodigal than thoſe of other nations, will have their pleaſures at any price; whereas foreigners will only take your commodities at their own; that is, at a price lower than they can get them elſewhere, or furniſh them themſelves. Compare the wages of thoſe who adminiſter to the pleaſures of the luxurious, that is, to their conſumption of ſuperfluity in furniture, equipage, dreſs, the table, perſonal ſervice, toys uſeful and uſeleſs, *&c. &c.* with the wages of thoſe who are employed in preparing the three great articles of Britiſh export, corn, cloth, and iron-ware; and you will ſee a very ſtriking difference. But in a rich ſtate, the rich are not more inſatiable in their demands for the work of the poor to ſupply their artificial wants, than the poor are inſatiable for the wealth of the rich to ſupply their natural ones: they invent, improve upon, vary, and refine in a thouſand arts, to catch and ſecure the taſte of the ſuperior claſs of the nation. Among the members of this claſs, there ari-

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ſes not only an additional demand, but a competition for the produce of induſtry and ingenuity; and the certain conſequence of competition in this, as in every other thing, is, to raiſe ſtill higher the wages of thoſe employed in gratifying the competitors. The artiſans, formerly buſied at cheap wages in furniſhing commodities for exportation, now either turn themſelves to the more lucrative employment of adminiſtring to the luxuries of their own countrymen, or inſiſt for higher wages if they continue in their old ones: thus the prices of labour and height of profits, and conſequently the values of commodity, riſe from claſs to claſs, and from rank to rank, through all the induſtrious claſſes and ranks of the kingdom. But there is nothing ſo difficult as to bring wages and profits down again, when they are once mounted up: a common man ſpends all his days earnings, whatever they are, more regularly than a gentleman does the rents of his eſtate; and if his wages are high, creates artificial wants for himſelf as well as the other: theſe he confounds with his neceſſary wants, and if you afterwards attempt to reduce him ſo low that he cannot gratify them, he is not able to fall back to a more

ſimple

ſimple way of living, but thinks you have ſtruck off ſo much from the very means of his exiſtence. And in the very ſame manner, the claſs above him live up to their profits; they put the expence of their living as it were to the account of the prime coſt of the commodity in which they deal, and when their profits are diminiſhed, they cry out and believe that their fortunes are ruined. Now, when the competition of the luxurious in home-conſumption is great, that is, when the diſſipation of private fortunes is frequent, and when the wages of one part of the induſtrious, and the profits of another are much raiſed, that is, when the price of commodity is heightened, it is obvious, exportations muſt decreaſe. Two reaſons make this conſequence infallible; one is, that the prices of commodities being raiſed, foreigners, who bought them only becauſe they were cheap, will not buy them now that they are dear; but will find them elſewhere, or furniſh them themſelves. The other is, that the exceſs of home-conſumption is, to a certain degree, a diminution of the fund for exportation. Whatever of the produce of the induſtry or ingenuity of the artiſan is thrown away at home, either in waſte

waſte, or in the change of modes to exceſs, is juſt ſo much loſt to exportation; and the quantum of this in a nation, wealthy and prodigal like the Britiſh, will be nearly in proportion to the means of extravagance of her inhabitants, and to the indulgence in it, which the contrivance of her laws gives latitude to.

The firſt effect then of the indulgence of the diſſipation of private fortunes, is, that whilſt it ſpurs on exceſs in home-conſumption of ſuperfluities, it checks exportation.

II. But the miſchief ariſing from that unlimited diſſipation, does not ſtop here. The very ſame cauſes which made exportations to decreaſe, will make importations to increaſe; for, in the *firſt* place, when the wages of workmen, the profits of merchants, and the prices of commodities riſe too high at home, foreigners fall to work abroad; they afford the produce of induſtry and ingenuity cheaper than we can; and they ſupply us, on our own terms, with thoſe very commodities with which we had formerly ſupplied them upon theirs. In the *ſecond* place, that profuſion, which at firſt was chiefly employed in the conſumption of the produce of the induſtry of our own people, is next employed

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in the conſumption of the produce of the induſtry of other nations: the taſte for home-luxuries will ſoon be extended into a taſte for foreign ones: theſe laſt will even be looked on as neceſſaries; and the ſame habits of expence which led men into exceſſes in their demands, for articles of the former kind, will make them ruſh into exceſs in their demands for articles of the latter.

The ſecond effect then, of the indulgence of the diſſipation of private fortunes is, to increaſe importation as well as home-conſumption.

A nation in theſe circumſtances is in a galloping conſumption. For the affairs of a nation are, in this reſpect, like the affairs of a private man: if a private man ſpends every year more than his income, he will, in a certain number of years, become a beggar; and a trading nation which conſumes at home more of its own than it ought, and which imports from foreign countries, annually and conſtantly, a great deal more than it exports to them, will ſooner or later be in no better condition.

III. But the laſt, and moſt fatal, effect ſtill remains behind. When a nation, in the ſituation I have deſcribed, engages in wars,

which every nation muſt do ſometimes, ſhe muſt borrow money to ſuppport them. The debt ſo contracted, or the intereſt of it can only be paid by taxes. Theſe, at leaſt to any conſiderable extent, can only be furniſhed by trade: but the funds of trade, and conſequently the produce of taxes, muſt diminiſh, when the imports exceed the exports; becauſe it is only the exceſs of the latter over the former, which ſupports trade, or ſupplies money. But new wars ariſe, perhaps diſtreſs; ſhe muſt again borrow, at a time when ſhe is leaſt able to pay, and is leaſt truſted, which will raiſe the rate of intereſt both to the public, and to private perſons; and again lay on new taxes at a time when her people, hardly able to pay their old taxes, are quite unable to bear new ones. The induſtrious poor, in ſuch a ſtate, will either become quite diſpirited, ſink, and work none at all; or, if they ſtruggle a while with their miſeries, they, and the merchants who buy from them, muſt add the price of the taxes, which both will pay, to the price of the manufacture itſelf; and this will raiſe the value of commodities ſo high, as not only to bar the little exportation that remained; but open the gates of importation ſo

wide,

wide, that foreigners will, in time, paſs them by, finding no ability within to give a reaſonable equivalent for what they uſed formerly to import.

The laſt effect then of the diſſipation of private fortunes, and of legal indulgence in that diſſipation, is, miſery at home from the weight of taxes, and impotency abroad from the deficiencies of funds, and the incumbrance of debts.

Moſt trading nations loſe their vigour from not making ſufficient proviſion againſt this natural progreſs of things. Spain, from not doing ſo, has been emaciated for ages: the great wealth which ſhe drew from her European dominions, and from the Indies, ſpurred on, in the ſixteenth century, all the induſtry of her people: the produce of that induſtry found proportionable vents; much of it was conſumed at home, much of it exported abroad; her * wool particularly, inſtead of enriching other nations, was worked up at home during the reign of Charles V. and Philip II. for the uſe not only of Spain, but of France, and other neighbouring countries, and of America; three cities, Seville

* Guicciardin—Treaty of Madrid, Fædera, tom. 14. *Uſtarez. Ulloa.*

Seville *, Toledo and Granada, alone, contained 40,000 woollen and ſilk looms:—And Spain flouriſhed. But in a little, the vaſt wealth and extravagance of individuals, called for all the produce of that induſtry, for the gratifications of home-conſumption. The ſtate and ſumptuouſneſs of the Spaniſh grandees, gave the tone to the manners of the nobility and courtiers of the reſt of Europe for half a century, who imitated their ſtate, altho' they could not imitate their expence. One inſtance of their extravagance may ſuffice. It was the † cuſtom in great entertainments, that the maſter of the houſe divided among his gueſts, who did not play, the money which he had won from thoſe who did. The conſequence of all this prodigality was, that little of the produce of the home-induſtry was exported, and thereby one great ſource of wealth ceaſed. Another conſequence was, that the wealth of the Indies paſſed only rapidly through Spain, to purchaſe the produce of the induſtry of other nations, for the uſe of her and her dominions, and thereby one great ſource of poverty was opened: Philip II. with all the wealth

* *Uſtarez.—Ulloa.*

† *Voltaire hiſt. univerſelle, tom.* v. *chap.* clxxiii.

wealth of the Indies, made a public bankruptcy; Philip IV. coined copper, becauſe he had no ſilver to coin. Taxes upon manufacture roſe ſo high, that ſome * Spaniſh writers of good authority, aſſert it is the intereſt of ſeveral kinds of Spaniſh manufacturers to ſit idle. Prices and profits roſe ſo high †, that foreigners could carry off the wool of Spain to their own countries, work it up there, return it in cloth to Spain, and afford it cheaper to her inhabitants than they could work it up for themſelves; and home-conſumption and imports increaſing, while exports were decreaſing,—Spain ceaſed to flouriſh.

France, in the reign of her boaſted monarch, ſaw both the riſe and almoſt the fall of proſperity, in this gradation of human affairs. She had not the wealth of the Indies, like Spain, to ſet the induſtry of her people on a ſudden in motion; but ſhe had the magnificence and extravagance of a young monarch, whoſe example had the ſame influence over the manners of his ſubjects, as the laws of other ſupreme powers have over theirs; and this operated the ſame effect;

* —— Ulloa, chap. iii.

† Ulloa, chap. ix.

effect: For, whenever wealth diſſipates, whether coming from the Indies, or from the ruins of the rich, induſtry of one kind or another will ſpring forwards to furniſh to its deſires. Lewis XIV. encouraged the extravagance, from temper and paſſion; but Colbert, from principle, encouraged the induſtry which was to ſupply the demands of that extravagance, and which would otherways have been ſupplied from other countries to the impoveriſhment of his own. Every project in the arts of induſtry was protected by the prince and his miniſter, and aſſiſted by the genius of a nation which they had modelled on their own. The conſequence was, induſtry exerted all her powers, ſhe raiſed more than the home-demand called for; and a foreign exportation bearing a large proportion to the home-conſumption took place. France was then at her acmê of proſperity in Europe. But Lewis ſtopt not the extravagance where he ſhould have done it; and which if he had done, the home-conſumption would have decreaſed, and the foreign exportation increaſed. On the contrary, he was extravagant himſelf, and, with the exception of one or two periods of diſtreſs, continued extravagance in his people to

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the end. The ſage Colbert died too long before his maſter: the point was not marked where the flow of exportation ſtopt, and the ebb began. The conſequence was, that the home-conſumption continued to increaſe beyond its due proportion; his people ſubſiſted by ruining and plundering one another, inſtead of making gain of their neighbours; the ſovereign contracted * above four milliards of preſent French money, of debts; the inferior claſſes of the ſubjects, overwhelmed with the burdens of taxes, which they were willing but unable to bear, ſunk under the weight; and France, in the year 1715, was no longer what ſhe had been betwixt the years 1670 and 1680.

The inſults offered by the Dutch miniſters † to Lewis XIV. in his attempts to treat with them in the year 1709; the little ceremony obſerved by the Engliſh ambaſſador § to the Regent of France; and by the Engliſh to the Spaniards, ever ſince the beginning of the preſent century, ſhew to what a cruel degree of humiliation a nation is reduced, whoſe nobility and gentry have been indulged in the habits of diſſipating their fortunes; whoſe

* *Siecle de Louis* XIV. *chap.* 30.
† *Siecle de Louis* XIV. *chap.* 21.
§ Earl of *Stair.*

whoſe merchants are languiſhing from the decreaſe in exportation; whoſe artiſans are overwhelmed with taxes; and whoſe ſupreme power is incumbered with debts.

In every nation where there is a danger of the imports exceeding the exports, theſe conſequences, from the exceſs of home-conſumption, are palpable. Nations ſee them, and provide againſt them. Sumptuary laws are enacted by ſome: Vain attempt! No laws of this kind can bind the wealthy or the powerful. Prohibitions of the importation of certain articles, or duties on them ſo high as to amount to a prohibition, are made uſe of by others. But this is equally vain: Prohibitions, and exceſs of duties, are in moſt nations only premiums to ſmuggling, and inſure its ſucceſs: Nor can they at all take valid effect in a nation like this, which often runs into a taſte, merely becauſe it is a forbidden one, and conſiders reſtraints on its vices as reſtraints on its liberties. A ſpirit of œconomy in the individuals of a trading nation, may maintain a ſuperiority of export over import for a while, as happens in Holland; but this ſpirit is accidental, government cannot command it, and its duration is uncertain. There is but one

way

way to reſtrain the extravagance of the luxurious portion of a trading people, which is, to allow them to reſtrain themſelves. Permit men by law to entail their eſtates, and the check will ariſe from the people itſelf. There is no other way, by which the extravagant may be compelled to be frugal, and yet their rulers eſcape the imputation of compulſion *.

F SECT.

* Hear the ſentiments of Mr. *Locke* and of Sir *William Temple*, upon the conſequences of unreſtrained expence in the individuals of a trading people. "A kingdom grows rich or poor, "juſt as a farmer doth, and no otherwiſe. Let us ſuppoſe "the whole iſle of Portland one farm; and that the owner, "beſides what ſerves his family, carries to market to Weymouth and Dorcheſter, *&c.* Cattle, Corn, Butter, Cheeſe, "Wool or Cloth, Lead or Tin, all commodities produced "and wrought within his farm of Portland, to the value "of a thouſand pounds yearly; and for this brings home in "Salt, Wine, Oil, Spice, Linen and Silks, to the value of "nine hundred pounds, and the remaining hundred pounds "in money. 'Tis evident he grows every year a hundred "pounds richer, and ſo at the end of ten years will have "clearly got a thouſand pounds. If the owner be a better "huſband, and contenting himſelf with his native commodities, buy leſs Wine, Spice, and Silk at market, and ſo "bring home five hundred pounds in money yearly, inſtead "of a thouſand pounds, at the end of ten years, he will "have five thouſand pounds by him, and be ſo much richer. "He dies, and his ſon ſucceeds, a faſhionable young gentleman, that cannot dine without Champagne and Burgundy; nor ſleep but in a damaſk bed, whoſe wife muſt ſpread "a long train of brocade, and his children be always in the "neweſt French cut and ſtuff. He, being come to the eſtate, "keeps on a very buſy family; the markets are weekly fre-

"quented

SECT. II.

Objections from the intereſts of the induſtrious poor conſidered.

It may be thought, that the hands of many of our induſtrious will be thrown idle, by this check upon the expences of the luxurious.

" quented, and the commodities of his farm carried out, and " ſold as formerly, but the returns are made ſomething dif- " ferent; the faſhionable way of eating, drinking, furni- " ture and clothing for himſelf and family, requires more " ſugar, and ſpice, wine and fruit, ſilk and ribbons, than in " his Father's time; ſo that, inſtead of nine hundred pounds " *per annum*, he now brings home of conſumable commo- " dities to the value of eleven hundred pounds yearly. What " comes of this? he lives in ſplendor, 'tis true, but this un- " avoidably carries away the money his Father got, and he " is every year a hundred pounds poorer. To his expences " beyond his income, add debauchery, idleneſs, and quarrels " amongſt his ſervants, whereby his manufactures are diſturb- " ed, and his buſineſs neglected, and a general diſorder " and confuſion through his whole family and farm. This " will tumble him down the hill the faſter, and the ſtock " which the induſtry, frugality, and good order of his Fa- " ther had laid up, will be quickly brought to an end, and " he faſt in priſon. A farm and a kingdom differ no more " than as a greater and a leſs. *We may trade, and be bu-* " *ſy, and grow poor by it, unleſs we regulate our expences.* " If to this we are idle, negligent, diſhoneſt, malicious, " and diſturb the ſober and induſtrious in their buſineſs, let " it be upon what pretence it will, we ſhall ruin the faſter." —[*Locke's conſiderations.*] Sir *William Temple* ſpeaking of the frugality of the Dutch, ſays, " It will thence appear, " that ſome of our maxims are not ſo certain as they are " current in our common politics: *as, That example and en-* " *couragement of exceſs of luxury, if employed in the con-* " *ſump-*

luxurious. The objection is important, let the truth of it be tried.

A nation which has a great interior, but no exterior commerce, like ſome of the Eaſtern nations, muſt diſſipate and circulate, becauſe a ſtagnation of expence would be attended with a ſtagnation of work, and thereby the induſtrious would want employment and bread; in which caſe they would either die out in ſilent miſery, or burſt forth into open civil diſſenſion; but where a nation has a vent for the produce of her induſtry in exportation, there is no fear that her artiſans will want employment, as long as they can afford their work cheap. Will our exportations to foreigners diminiſh, becauſe our people, living in a more frugal manner, are enabled to furniſh their exported com-

"*ſumption of native commodities, is of advantage to trade.* It "may be ſo to that which impoveriſhes, but not ſo to that "which enriches a country. It is indeed leſs prejudicial, if "it lies in native, than if in foreign wares; but the hu"mour of luxury and expence cannot ſtop at certain bounds: "what begins in native will proceed in foreign commodi"ties; and tho' the example run among idle perſons, yet "the imitation will run in all degrees, even of thoſe men "by whoſe induſtry the nation ſubſiſts. And beſides, the "more of our own we ſpend, the leſs we ſhall have to ſend "abroad; and ſo it will come to paſs, that while we drive "a vaſt trade, yet, by buying much more than we ſell, we "ſhall ſoon come to be poor."——*Obſervations on Holland,*

commodities at a more frugal price? On the contrary, prodigality at home, is always attended with dearneſs of labour and commodity; and dearneſs in theſe, is the very heavieſt of all loads upon exportation. What throws hands idle, is not a regular, known, progreſſive demand, but a deſultory, unknown demand, that is ſometimes progreſſive, and ſometimes retrograde; to ſupply which the induſtrious furniſh too much one year, when their goods hang on hand, and too little another, when their cuſtomers go elſewhere. As long as the diſſipation of private fortunes is allowed and encouraged, it is impoſſible that the quantum of the demand for home-conſumption can be known; becauſe it depends on caprice, on faſhion, and ſometimes on a national frenzy of expence, ſuch as ſeized Rome during the deſtruction, and immediately after the deſtruction of the republic. But it is not difficult for merchants to know the extent to which they may prepare their ſupplies for the foreign demand; becauſe it depends entirely upon motives of intereſt; when prices and profits at home are high, it will be low; and, in proportion to the lowneſs of theſe, it may be almoſt infinite, or at leaſt, ſuch as the

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merchants need have no fear of over-ſtocking. Laws contrived to check the diſſipation of private fortunes in any ſet of men, are contrivances to aſcertain the quantum of the demand, for the produce of the induſtry called for at home by ſuch men; becauſe they reduce them to ſpend only their annual income, or a little more; and the extent of this, it is not difficult for merchants, or for a State to find out. The conſequence is, that the demand and ſupply at home being even, prices will proceed on known principles; and therefore will be equable, and will be low. But the demands of the luxurious at home, are deſultory and limited, whereas the demands of foreigners are ſteady and unlimited, as long as you can attach them, by the ſureſt of all human attachments, their own intereſt. And therefore the induſtrious will find themſelves, like the Dutch, compenſated for the diminution of their profits, by the ſureneſs of them, and by the extent of their foreign dealings.

But, in the next place, if it ſhould happen, which never will as long as prices are low, that foreigners ſhould call for ſomewhat fewer of our commodities, becauſe we call

call for fewer of theirs; we have a vaſt vent, and progreſſive in its vaſtneſs, in our own Colonies. The Colonies we formerly had, have been extending for ages in an uniform, uninterrupted, and ſpeedy gradation, in their demands for the produce of European induſtry; more Colonies are now added to them; and theſe too muſt extend from natural cauſes which never fail, in the ſame uniform, uninterrupted, and ſpeedy gradation in their demands for the ſame produce.

The increaſe of demand for the produce of the induſtry of a nation, is the foundation of opulence; a ſtoppage in it is the firſt prognoſtic of impending ruin: and therefore, it is the duty of government, to make preparations for the colony-ſupply, and to take care that the progreſs of it keep equal pace with the progreſs of the colony-demand. If this is neglected, Britain muſt ſupply it, with the commodities of other European nations, and not with her own: In this caſe, *only ſome* of the Britiſh ſubjects will have *only* the profits of the factor who receives a commiſſion, purchaſes, and tranſports. The lately acquired French and Spaniſh dominions may ſtill be ſupplied with the commodities of France, and in time perhaps of Spain;

and

and we ſhall have all the expence of ſupporting them while their original proprietors will have all the benefits of their former connection with them. A wiſe reaſon for preferring acquiſitions in French North America, to acquiſitions in the French Weſt-Indies, at the late peace, was, that it was impoſſible for Britain to be ready at once, with her own manufactures, to have ſupplied the demands of Colonies already fully ſettled; for there is no getting manufactures in a moment, in a country where every one is employed; whereas ſhe had it in her power, to gather, and to enlarge preparations for the ſupply of colonies, that were gradually enlarging. Now, every check upon home-conſumption, is a fund for ſupplying this immeaſurable, external, colony-demand. The demand is progreſſive; the ſupply ought to be progreſſive too: if men were allowed to entail their eſtates for endurance in Britain, they would entail them only by degrees; and every new entail is a reſtraint upon the diſſipation of one family at leaſt, and ſo far operates an extenſion of the fund for the ſupply of the foreign-demand.

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In modern times, that man paſſes for the beſt politician, who can invent a remedy for an evil ariſen: but the antient legiſlators prevented the evil itſelf from ariſing. The laws of Solon, of Lycurgus, and of the Decemvirs, with the conſent of whole nations, were not partial cures to partial diſeaſes; but looked forward to futurity, and made proviſion for contingencies before they could preſent themſelves. The anſwer of Themiſtocles to a perſon who wondered at his not knowing ſome trifling accompliſhment, that, "tho' he knew not it, yet he underſtood "how to make a great city of a little one;" was the expreſſion of a miniſter who thought in this manner.

SECT. III.

Political period of diſſolving Entails.

There is but one period in the ſtate of an extenſive ſociety, where full latitude ſhould be given to the diſſipation of individuals; and conſequently where entails, which prevent that diſſipation, ſhould be prohibited: and that is, when a nation has no manufactures or trade, but is well ſituated for them. An extenſive nation without trade, generally con-

conſiſts of three claſſes of men; a numerous peaſantry who rear very little food, in proportion to the capacity of the ſoil and climate, and moſt of which little, is eat by the very perſons who raiſe it; a ſmall number of artiſans, who ſupply the members of the ſociety with the very few neceſſaries they need, beyond thoſe of food; and a gentry entirely idle, who are furniſhed with that food, and thoſe neceſſaries from the other two claſſes, without paying any thing, or at leaſt on paying a perfect triſle, for them in return. The two former of theſe claſſes, from their dependence, will be ſlaves to the laſt; and the laſt, from their independence, will be rebels to the ſupreme power. Wealth, that great ſpur of human induſtry, will be of no uſe in the hands of the wealthy; becauſe it conſiſts chiefly in large poſſeſſions of land, and in the corn, cattle, and other produce of that land, which produce cannot be turned into money, in a State where almoſt every one provides himſelf in almoſt every thing, or forces it from others. It therefore will be ſpent in maintaining a number of idle retainers, not given in an exchange for the commodities produced by the exertion of the induſtrious and ingenious. An increaſe of wealth will not only

do no good, but it will do much hurt in ſuch hands; becauſe it increaſes the proportion of thoſe idle retainers; it attaches them more firmly to the perſon who maintains them, and makes a little fortreſs of every baron's caſtle, and a little army of thoſe who live upon his eſtate. It is well ſaid by the elegant and pictureſque Dr. Robertſon, that, "in every corner of the land, in feudal times, lived a great lord, who neither "feared the king, nor pitied the people." A nation, in this ſituation, if the tranſition of land-property is rendered unwieldy by entails, may ſlumber on for ages: happy perhaps, but ignorant in the arts of life; brave, but weak, in durable effort; and tho' active, yet active to no good. To continue entails among ſuch a people, is like the laws of Lycurgus, to make the ſame ſyſtem of circumſtances, whether good or bad, eternal in a nation. Perhaps this, or ſomething like this, was the ſtate, from which Henry VII. wiſhed to deliver England, and the independence of the crown, when, as we are told by Lord Bacon, he laid his ſcheme, for the diſſolution of the great families, by obtaining a law, giving latitude to the diſſolution of entails.

Mark

Mark the conſequences which muſt naturally follow from ſuch a latitude given to a people under the circumſtances I have juſt mentioned.—There is no extenſive nation, however rude, or however much limited in the tranſmiſſion of land-property, but muſt have ſome taſte for luxury; by which I mean a taſte for unneceſſary articles of expence produced by the ingenuity and induſtry of the artiſan; and theſe are at firſt generally imported from nations more refined in the arts of life. In old Records, we find great expence in coſtly dreſſes, and worked plate, amongſt even the moſt frugal of our Engliſh and Scotch anceſtors. But a taſte for ſuperfluity, once got, is apt to extend itſelf; nothing checks it, but the want of money, or of credit: furniſh theſe two, and men will indulge it to the full of the powers given to them. Now the immediate effect of laying open entails, is, to enlarge the credit of the landed men, who, finding the means of purchaſing ſuperfluity more eaſily than formerly, advance with eager ſteps, in their purſuits after it; they confound artificial, with neceſſary wants; they call for a thouſand luxuries of life, without knowing they are luxuries; and wants, before unthought

of

of ſtart up, and multiply upon them, when they find they can purchaſe whatever their deſires can ſuggeſt. But the commodities of luxury, which were originally furniſhed from abroad, come now to be furniſhed by the artiſans at home; for unleſs there be a taſte for ſuperfluity ſomewhere, there will not be a taſte for labour any where. Theſe increaſe in number, and ingenuity; a multitude of new hands join them, from that numerous claſs which formerly only tilled the ground; intereſt, emulation, puſh on both the new and the old: and as the great formerly plundered the poor, the poor now exhauſt the great. A new ſet of men, too ſtep in, and aſſiſt in the ruin of theſe laſt; to wit, thoſe who ſupply them with money at intereſt. Encompaſſed in this manner, the old proprietors of the land, now freed of their entails, firſt diſſipate among thouſands, in their pleaſures, the ready money of the country, moſt of which was in their hands; they then borrow, and mortgage their lands in ſecurity of the money lent; and in the end, ſell their lands in ſatisfaction of what they cannot pay. All this, it is true, does not add to the national ſtock of money, for nothing but exportation does that: it adds, however, to the national ſtock of

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induſtry, and of an idle and rude, makes an induſtrious and ingenious people. The want of taſte for ſuperfluity had locked up, not only the induſtry and ingenuity of the nation, but almoſt all the money that was in it; the taſte for ſuperfluity, on the contrary, having now withdrawn money from the luxurious, and diſſipated it among the induſtrious, it is conſtantly ſhifting its place; it finds its way into the hands of every ſon of induſtry who will exert himſelf; in its circulation it gives employment, and creates activity, wherever it paſſes. The effect of all this is, that on the ruins of thoſe who held it for ages, it rears up an extenſive *inland commerce*, in the hands of thoſe who do not hold it for a minute.

But this is juſt what a nation needs, which had formerly no trade, and which has felt its weakneſs from that want. An interior circulation is the object at which ſuch a nation muſt firſt aim; foreign for the moſt part only follows after the inland commerce; and the increaſe of the national ſtock of money only follows after the foreign commerce. But, to attain this inland commerce, a nation in the ſituation I have deſcribed, muſt ſubmit to all the fatalities attending diſſipation, profuſion, the miſery mixed with the hap-

happineſs of individuals, and the ruin of the very beſt part of her citizens; for, as frugality at home is the baſis of foreign trade, as I formerly ſhewed, ſo luxury at home is the baſis of inland, where there is no foreign trade.

In this view, entails were as detrimental to the intereſts of trade in the reign of Henry VII. as they would be inoffenſive to them in that of George III. To deſtroy them then was as neceſſary, as it would be impolitic now. The ruin of the great only followed from undoing them then; a hurt to the whole might follow from deſtroying them now.—There are few laws abſtractly good or abſtractly bad. The beſt laws are thoſe which are made, by the power which enacts them, to vary as circumſtances vary.

It is very ſuperficial in people, to obtrude conſtantly the example of England, as a bar in the way of all reaſoning upon the good effects of entails; and to think that as England firſt throve by laying her entails open to diſſolution, ſo ſhe has ſince thriven by never permitting them to return, and by the moſt eaſy and free tranſition of land-property: on the contrary, there are few countries in Europe where the tranſition of land-property

is leſs eaſy and free: England has a far greater proportion of land-property locked up from commerce than Scotland. The rule of the common law, that the heir is not liable to the debt of his anceſtor, except to the extent of the aſſets come to his hands, is a law of entail of all the lands of England, unleſs where the anceſtor has created a formal ſecurity upon the land-eſtate during his life: The rule of the common law, That the wife ſhall have her dower of lands, againſt her huſband's creditors, is another embargo upon the tranſition of land-property, during her life at leaſt: the lands appropriated to the uſes of the church, of charity, and of communities, are prodigious in extent: the entails of England, limited in their duration as they are, yet always operate a limitation, upon alienation, to the extent of that indurance: and the Engliſh truſt-ſettlements in marriage-articles, are a repetition and continuation of withdrawing from ſale, near one half of the land-property of England, from generation to generation. If land-property is locked up, it is juſt the ſame whether that happens under authority of a law-book, allowing entails for length of endurance, or under

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the manners and practice of a nation. And, it imports nothing either to the nation or to my argument, in whoſe hands it is locked up, provided it is withdrawn from commerce. Now, in this view, compare the proportion of the land of England, with the proportion of the land of Scotland, locked up at the ſame time from ſale, and you will find how greatly the former will, at any given period, exceed the latter.

CHAP. VI.

Fifth Conſequence of letting Entails die out.

"FIFTH conſequence. Antient families would ſink, and, together with them, all thoſe honourable ideas which attend reſpect for family."

The conſequences are very bad for a nation, when thoſe in the coaches, and thoſe on the back of them, are accuſtomed to change places with each other. Now, in a country where there is little luxury, or opportunity for expence, a family may laſt for ages without an entail; and accordingly, in ſome nations,

tions, families have ſtood long, though not ſupported by entails. But in Britain, at preſent, where there is a gradual and a great inequality of fortune, which makes rank vye with rank; and where there is a great opportunity of expence, it is next to a miracle if a family laſts four generations, unleſs the repreſentatives of it are reſtrained from ruining themſelves. This danger too, is more imminent in Scotland than in England; for, with the ſame love of pleaſure, we have not the ſame funds to ſupport it: An Engliſh eſtate will ſtand its ground againſt two or three fools in ſucceſſion; but a ſingle ſpendthrift ruins a Scotch one. It is alſo in Scotland more imminent in thoſe who have entailed eſtates, than in thoſe who have not; becauſe the former, being generally men of better families, are more expoſed to expence than the latter.

I have known men, whoſe opinions I eſteem, apt to laugh at this idea of family as trifling and unſubſtantial. But all hiſtory is full of the real effects of it: for, as antient families are an ornament to a nation, in times of proſperity; ſo, in times of diſtreſs, either from the efforts of tyranny or of invaſion, they are a ſure wall, behind which

the common people run naturally to form and to rank themſelves. But a nation without families will either become unfeeling to its liberties, or abuſe them. Such a nation is a mere rope of ſand void of coheſion, and will ſlide away at the very inſtant when government moſt needs its aſſiſtance.—The *principes*, or men of family in Italy, Spain, Gaul, Britain, and Germany, made the firſt and the laſt ſtands againſt the Roman attempts to inſlave the world.—The Romans ranked behind Pompey and the Senate, in defence of the conſtitution, againſt Cæſar and an invading army; the Dutch behind the family of Orange, againſt domeſtic tyranny and foreign invaſion; and the Hungarians behind their nobles, in defence of their common, civil, and religious liberties.—The Roman Emperors, as we ſee in Tacitus, could find no way of extinguiſhing liberty, but by deſtroying the men of the noble families in Rome; and were forced to incur the imputation of being monſters, becauſe that was the only means by which they could be ſecure of continuing to be ſovereigns.—In all the arbitrary governments of preſent Europe, the laſt defence againſt arbitrary power was made by the nobleſſe;

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by which I mean what Henry IV. of France did, when he ſaid to his States aſſembled at Rouen, " *La qualité de Gentilhomme eſt* " *notre plus beau titre.*;" that is, not only thoſe who have hereditary titles and rights, but all thoſe who are well born. It was againſt the Nobleſſe of Europe, that Louis XI. and Richelieu in France, Ferdinand, and Charles V. in their vaſt eſtates, Henry VII. in England, the houſe of Stuart in Scotland, and Frederic III. in Denmark, directed either their arts or their violence, as the only ſure means by which they could inſlave that commonalty whoſe intereſts they pretended to have at heart. The fall of the higher is almoſt always attended with the ruin of the political liberties of the inferior orders of the State. Theſe princes ſaw this conſequence, they proved it, they tried it, and they or their poſterity experienced the truth of it in every country but England; that country, which is an exception from all common conſequences, wherever the moſt diſtant intereſts of liberty are in view.—It was the families of Britain, who have conſtantly defended the Britiſh conſtitution; and the only time it was ever deſtroyed, was by a ſet of men who wiſhed to bring all mankind down to the mean level of moſt of themſelves;

ſelves: it is a curious fact in the hiſtory of human character, with regard to Cromwell*, that the ſame perſon who got the Houſe of Lords voted to be no neceſſary part of the conſtitution, got a committee named to deſtroy the entails of England, even limited in their duration as they are.—In France we ſee one part of the Nobleſſe expoſing themſelves, every day, to death in the field, wherever ordered, for the glory of a country, the liberties of which another part of that Nobleſſe is aſſerting, with the ſpirit of Britons, and the dignity of Romans.—The Eaſtern empires, on the contrary, have, in almoſt all ages, been both eaſily inſlaved and eaſily conquered: one or two bold actions generally determined their fates; becauſe in almoſt no age have they had an hereditary, authoritative, intermediate rank, who could maintain reſiſtance againſt an enemy, after the Sovereign was fallen, or rouze it againſt him when he trampled upon human nature.--Turkey, from want of families, is the only complete deſpotiſm in Europe.--The preſent Germans, from their Princes laying out their treaſures in buying up the land property of their ſubjects, are running into a ſituation which

* *Ruſhworth.*

which will reſemble that of Turkey too much: for that ſtate of deſpotiſm is, of all others, the moſt irretrievable, where the antient families of a country, being diveſted of their eſtates, there is no rank in the State, except that of Prince and Tenant; terms which will ſoon be converted, if not in name, yet in effect, into thoſe of Maſter and Slave.

It is this ſingle idea of regard to family, which has kept the Scots a reſpectable people, from the moſt diſtant periods of their hiſtory. It was this, which in antient times made them brave in war, and courteous and gallant in peace; tho' perhaps, like the thiſtle in their device, a little rough upon provocation: and it is this, which, ſince the union of the two kingdoms, has carried them on in arms; in the State; in profeſſions; in letters; and even in trade, tho' ſlowly, yet perhaps as faſt as the diſadvantages of their remote ſituation, of their ſoil, climate, and produce, and of their coming ſo late into trade, in compariſon of other commercial nations, will admit: where almoſt every man feels himſelf a gentleman, almoſt every man exerts himſelf to preſerve his diſtinction. Perhaps this idea may lead to a little pride; and if it does, perhaps there is no great harm

harm done. The Romans were proud, and they conquered the world. The Spaniards are proud; and, tho' unfortunate in many reſpects, yet their attachment to the *juſtum et honeſtum*, does honour to human nature. When an individual or a public loſes the feeling of right pride, the one ceaſes to be a man, and the other to be a nation. It is a dangerous thing to tamper with, and change the ſpirit of a people, when that ſpirit is a good one; becauſe nobody can foreſee what ſpirit may come in the place of it, The Dutch, in the year 1714, were amongſt the braveſt ſoldiers in Europe, and in the year 1744, were no longer what they ſo lately had been.

It is the faſhion of the times, to allow mercantile conſiderations to enter too much into the ſcale of political deliberation; as if weavers and blackſmiths were the principal part of God's creation. But a wiſe government will conſider, that it has an intereſt in every rank of its ſubjects: that the huſbandman, the artiſan, the merchant, and the gentleman, all fill their places, have their provinces in the ſociety, and are equally the objects of its attention and favour. Such a government will think itſelf

ſelf as much bound to preſerve the high ſpirit of one ſet of men, as to encourage the induſtrious ſpirit of another. Britain has an advantage, which no nation, antient or modern, ever had, of containing within herſelf at once, a great claſs of high-ſpirited gentry, and a great claſs of induſtrious honourable traders; ſo as to join all the offenſive extended force of a rich State, to all the defenſive obſtinate ſtrength of a poor one. France has the gentry, not the traders in proportion; Holland has the latter, not the former: as Britain has both, the intereſts of both ſhould be equally dear to her governours.

If the landed men of family of a country like Britain, could be turned in general into merchants, the gain would be trifling, the loſs ſolid. But indeed the thing cannot be done. The ideas and ſentiments of the two orders of men are ſo perfectly oppoſite, that it is almoſt impoſſible to graft the one upon the other: trade requires a minute attention to minute objects, which it can hardly be expected, men bred up with the views of affluence and ſuperiority, can ſubmit to. I do not ſay the habits of theſe men are right; I only ſay they are founded in human nature:

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The French have been attempting ever ſince the time of Colbert, to make the conditions of the two orders of men compatible, but all to no purpoſe. The deſtruction of entails in Scotland would make many individuals poorer, but the community not one farthing richer.

I have been told by a merchant, whoſe depth of obſervation is equal to his accuracy, that of all the preſent London merchants who have made large fortunes by trade, there is not one who began the world with above a thouſand pounds in his pocket; excluſive of thoſe who had the good fortune to continue the houſes which their predeceſſors had ſet in motion, and which always do move on like a machine, without the exertion of any new induſtry. With ſo ſtriking an example before our eyes, is it not ſtrange, in many in Scotland to think, that by expoſing our men of entailed eſtates to ruin, we ſhall load them with wealth? indulging them in a latitude of expence, will expoſe them to the former; their avoiding trade, or their bad ſucceſs in it, will prevent the latter.

Perhaps the ſupport of families, almoſt always expedient, is *now* neceſſary in Britain.

tain. Thoſe who look at the domeſtic hiſtory of England for a century paſt, without the prejudice of party, will ſee, that the monarchical and ariſtocratical parts of the conſtitution have yielded conſiderably to the democratical part of it. The two former, perhaps, now need that help, which the latter once needed. Some late diſorders only prove the abuſe, but not the duration of liberty: for if one part either of the conſtitution, or of the nation, incroaches upon another; that exact poiſe, in the different parts of both, which has made the wonder of mankind, and in the preſervation of which alone liberty is ſecure, may be difficult to be recovered. The reign of Charles I. is not the only inſtance in the later Engliſh annals, which ſhews, that an Engliſh king, and an Engliſh conſtitution, have more to dread from popular demagogues, than from the illuſtrious offspring of antient ſtateſmen, patriots, and heroes, tho' adorned with titles, and loaded with riches. A ſolid and laſting nobility and gentry, are the beſt barriers againſt the invaſions of the crown, and the falſe popularity of particular men, and the inſolences of the rabble.

But if the advantage of ſupporting men of family is great; the danger of letting them fall into diſtreſs is ſtill greater, both to the liberty of the ſubject, and to the tranquillity of the State; becauſe theſe, when in circumſtances of diſtreſs, will become, either the meaneſt, or the moſt deſperate of mankind. Go into the antichambers of miniſters, over the moſt part of Europe, and you will find them crowded with birth and indigence; look at the fields of rebellion, and you will ſee them ſtrewed with men of the beſt blood, and often the beſt ſpirits, but whom misfortunes have driven into meaſures of deſpair. Had theſe men been protected by proper laws and polities, the former might have been the firmeſt aſſertors of liberty, and the latter the bulwarks in war, of their country.

But if the ſupport of families, is of conſequence to the general intereſts of Britain, the ſupport of them in Scotland, is of peculiar conſequence to *her* intereſts. Were *our* entails in Scotland to be deſtroyed, the country would be crowded with men of £. 200 or £. 300 a-year fortune. Our own luxury, and the contagious imitation of Engliſh luxury, would ſoon bring on an equality

quality of fortunes with a vengeance. But removed far from the ſeat of government, and the attentions of legiſlation, as we are, are theſe the men to repreſent our grievances, to complain of our inſults, if either ſhould be offered; or to procure the execution of national ſchemes for our good? There is a boldneſs and kind of becoming inſolence in independence of fortune, that inſiſts to be, and will be heard; but in poverty, unleſs attended with unuſual vigour of ſpirit, there is a timidity, that cannot ſpeak for itſelf, and is not liſtened to, when it does. Our countrymen are complained of, for their dependence upon miniſters in parliament; the reaſon is, that moſt of thoſe whom miniſters ſee, are dependent in their fortunes. When the ſame man goes up without fear, to the mouth of a cannon, pointed againſt him; yet trembles in the preſence of a man in power, as if he was a being of a ſuperior order, and could take from him his honour or talents, as eaſily as with-hold from him graces, which, in compariſon of theſe two, are but trifles; the dejection ariſes not from meanneſs of ſpirit, but from the depreſſions of fortune. Can a ſcheme, the natural conſequence of which is, to take independence from the few inde-

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pendent amongſt us, be for the good of Scotland? Will it not hurt Britain, by throwing the weight of the Scotch part of the Britiſh legiſlature, conſtantly on the ſide of whatever miniſter is uppermoſt? The miſerable dependence, and total inſignificance of almoſt all the Scotch Boroughs, ariſing from the poverty of individuals, may ſhow both Scotland and England, what they have to expect from the equality, that is, from the poverty of individuals in the Scotch counties.

I am not aſhamed to confeſs, that I am touched with other effects, to appearance more trifling, which will follow from that equalizing of fortune, wherewith the deſtruction of entails muſt be attended. The Engliſh mob, by which I mean the high as well as the low mob, when the high forget themſelves, deſpiſe their Scotch neighbours for their poverty; they do not deſpiſe their Iriſh neighbours for the ſame poverty; yet the lower claſſes of both countries are equally poor: but the difference is, the rich of the Iriſh who are ſeen in England, are more wealthy, than the rich of the Scotch who are ſeen there; and the wealth and conſideration of individuals, by a common aſſociation of ideas in human nature, throws always

always conſideration on the nation to which they belong. We lately ſaw what was never ſeen in Britain before at one time; a virtuous Prince, and a virtuous miniſter, acting together, on the faireſt principles of wiſdom and liberty; when the efforts of faction and malevolence could not attack that miniſter on his own poverty, they did it on that of his country. It is true, men of ſenſe deſpiſed the topic: but is a nation made up of men of ſenſe? Ninety nine out of one hundred of the human ſpecies, are guided by prejudice; and the prejudice of contempt, is as ſtrong a mover as any in the human breaſt. Accelerate the alienation of the eſtates of the men of family and rank in this country, by laying open their entails, and the popular contempt of the weak, among our neighbours, will be doubled againſt us. Many politicians will think this a trifle: but there is nothing a trifle in politics, which operates ſtrong effects on national opinions. Mutual contempt diſunites nations, mutual reſpect cements them; without this laſt, their very union will only make them more ſtrongly to deteſt thoſe bonds which tie them together.

CHAP. VIII.

Objections to Entails conſidered.

I. THE common objection to entails of land is, "That they ſtop the progreſs of agriculture," and this for two reaſons: the firſt is, that the proprietor himſelf will not lay out money upon improvements; becauſe the benefits of them are not at his own diſpoſal, but fall to the heirs under the entail, who, in ſome inſtances, may be very remote relations to him. The other is, That the leſſees will as little lay out their money upon improvements, becauſe the leaſes upon entailed eſtates are ſhort.

I acknowledge the fact, and in Scotland it is too melancholy a truth. But the objection does not ariſe from the nature of entails; it ariſes only from improper conditions allowed in them; and theſe ought, by law, to be aboliſhed in paſt, and prohibited in future entails. By public law, in Engliſh entails, leaſes cannot be let above 21 years or three lives*: by private conditions impoſed in many Scots entails, they cannot be let for more than three or a few more years: and in neither country can entailed lands be granted in

* Statute-book, anno 32. Hen. viii. cap. 28.

in fee-farm, or feu, though at the full rent at the time of the grant; nor alienated, though with reſervation of a rent-charge equal to the rent at the time of the alienation. But ſuppoſe that very long leaſes, and that fee-farms, and feus, and deeds of alienation, with proper reſervations, were authoriſed by law; the objection to entails, drawn from the intereſts of agriculture, would entirely fly off. When the leſſees or others intended to make improvements, they would purchaſe ſuch grants from the land-lords; after which they would lay out all their money and double their induſtry upon the purchaſe, when they knew that all the fruits of both were to be their own. When the proprietor himſelf intended to make improvements, the money thrown into his hands by theſe purchaſes would enable him to make them, and he would grant off the lands he intended to improve, in truſt for his own behoof; in order to be certain that all the benefits of his improvement ſhould be at his own diſpoſal.

Perhaps purchaſes of this kind are the ſureſt means, by which improvements can be brought about, in a ſoil and climate like that of Britain, which require good ſtocks

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in improvers before improvements can be made. In the ordinary way of making a purchaſe, a man who has £. 2000 to lay out upon land, pays it down now, for a ſubject which yields him perhaps £. 80 rent, and he pays nothing afterwards: but if he purchaſed a fee-farm, feu, or alienation, in the way I have mentioned, he would pay £. 80 a-year for ever, and perhaps £. 200 down at firſt. In the firſt caſe, all his money is ſpent upon the purchaſe, and he is unable to attempt any improvements afterwards; but, in the other caſe, as it is to be preſumed the land will always anſwer its own rent; the purchaſer has £. 1800 to lay out upon improvements. The conſequences would be theſe: the old proprietor would be more ſure of his rent than he was formerly; the new proprietor would, by his improvements, create a new eſtate upon the old one; and in the proſperity of both there would be a national gain.

When a man lays out his money upon the purchaſe of land, in the preſent way, he ſeldom does it with a view to improve it, he does it merely to get a ſecurity for his money; he lays it out upon land as he would upon an Indian bond, and the nation

on is as little the better of the one transfer as of the other. But, if it was cuſtomary to purchaſe land by giving for it an annual ſum near its annual value at the time of the purchaſe, people would buy with the only view in which the nation has an intereſt, that is, to make thoſe acres worth pounds which are now only worth ſhillings. And, if this practice was to become frequent, men might perhaps find the Indies in many parts of Britain, as well as in Aſia and America.

One would think it ſhould require little logic to prove, that independence of poſſeſſion, in thoſe who cultivate the ground, is the beſt means to procure improvement upon it; ſeeing it is natural for men to beſtow more induſtry on what is their own, * than on what is another's. In countries where the ſoil and climate produce ſpontaneouſly, this perhaps is of little conſequence; but, in countries, where the exertion of induſtry is requiſite for the cultivation of land, the enjoyment of, or the want of this independence of poſſeſſion, are the true touch-ſtones by which the ſtate of improvements of lands may be diſcovered: Muſcovy, Poland what-

* *Aliter utimur propriis, aliter commodatis.* Quintil.

ever noiſe the exportation of her grain may make, the hereditary countries of the Empreſs notwithſtanding their being in the moſt temperate climates of the world, and Scotland notwithſtanding her neighbourhood to England, are inſtances where the ground is ill cultivated, becauſe the poſſeſſions of thoſe who labour it are dependent. Switzerland, the Low-countries, and England, are examples where land is highly cultivated for a contrary reaſon: and France would be alſo an inſtance to this laſt purpoſe, was it not one of the ſtate-maxims of the government of that kingdom, to oppreſs, by exactions, the cultivators of the ground, in order to raiſe the condition of thoſe in the cities, the camp and the court. In ſhort, from almoſt one end of Europe to the other, it may be obſerved, that, in proportion as the ſtate of poſſeſſion of thoſe who cultivate the ground is dependent or independent, the ground is well or is ill cultivated.

Now almoſt all entailed eſtates in Scotland are low-rented; becauſe almoſt every tenant in tail takes a fine to get money into his own hands, rather than an advanced rent which his heirs are only chiefly to enjoy; and therefore the preſent leſſees and

others

others would be abundantly ready to enter into tranſactions for independent grants of entailed lands at ſuch low rents. It is a maxim in every body's mouth in Scotland, That the country never will be cultivated, nor the country-people made free, until long leaſes are granted to the tenants: but, though every body ſays ſo, no body grants them. That is a wiſe law, which draws good out of a ſeeming evil, and which, without compulſion, gets men to do for their own ſakes, what they would not do for the public. People, whoſe eſtates are not entailed, imagining that feus hurt the value of an eſtate in the eyes of purchaſers, are unwilling to grant feus; and the laws cannot compel them: But thoſe whoſe eſtates are entailed will, of themſelves, without perſuaſion and without compulſion, give independence to thoſe below them, if the laws will permit them to do it.

There are two limitations, however, which ought to be put upon this latitude, if permitted: As the rents of entailed eſtates are, and, in general, always muſt be low; as moſt men of entailed eſtates want ready money; and as all tenants are fond of turning their dependent leaſes into independent feus or pur-

purchaſes; the infallible conſequence of the latitude would be, that, in a very little time, almoſt all the leaſes upon entailed eſtates would be turned into feus, or purchaſes with reſerved rents. But even the firſt of theſe is, in truth, a property; and therefore though the tenants in tail would be ſecured of a rent, yet the proprietors of a great part of the land would be changed. But all ſudden revolutions in land-property are attended with conſequences not eaſily to be foreſeen: one conſequence which no one can fail to ſee, is, that the tenants of eſtates which are not entailed, would all run to get feus or purchaſes from the proprietors of eſtates which were; by which the proprietors of the former eſtates would be hurt; and therefore it would be a proper limitation upon the latitude of feuing, or alienating with a reſervation of a rent, that each ſucceſſor ſhould be limited to grant off no more than a fifth, fourth, or third of the entailed eſtate. By this means, the leaſes would be turned into feus, not at once, but by regular, proper, and unperceptible degrees.

The other limitation proper to be put upon the power of feuing, would be, that no proprietor of an entailed eſtate ſhould have

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it in his power to feu off the principal manſion-houſes upon his eſtates; nor certain proportions of the lands, ſuch as a third or fourth part around them. Without this limitation, the preſent land-holders might, in time, loſe all connexion with the country, and all authority in their counties.

II. Another objection to entails, equally common, is, "That they weaken the hands "of trade, by ſtopping the credit of landed-"men."

There are, no doubt, diſadvantages to trade, from ſtopping the credit of a number of the landed-men of a country; but there are likeways advantages from it even to trade herſelf. The value of the objection therefore depends upon which of theſe overbalances the other; and if people will think with clearneſs, and reaſon with fairneſs, it is not impoſſible to aſcertain on which ſide the balance lies.

In ſtopping the credit of a number of landed-men, trade will ſuffer two loſſes: in the firſt place, when landed-men ſell, or borrow, in order to enter into trade, or are ſurety for thoſe who are in it, they ſerve the intereſts of trade to the extent of thoſe ſales, borrowings, or ſuretyſhips; becauſe to that extent

tent they increaſe the quantity of the force with which ſhe conducts all her operations, which is either money or credit: and if theſe powers over property are barred, trade is a loſer, to the extent that they would have been made uſe of in her ſervice. In the next place, whatever a landed-man conſumes of the produce of induſtry, more than his annual income, is ſo much gain to trade; for the artiſan and merchant ſupply moſt of his conſumption from the ſtores of trade; and on his profuſion, folly, and ruin, do, very ſoberly, make themſelves exceeding rich: and therefore, when a number of landed-men are debarred from running their eſtates out, trade is a loſer to the extent, to which the extravagant would have indulged their extravagance in purchaſing her commodites, had they not been prevented. I cannot diſcover any third circumſtance in which trade can loſe, in circumſcribing the credit of a number of landed-men.—The former of theſe uſes of credit, upon land-property, may be reckoned a judicious uſe; the latter is an injudicious uſe of it.—Now I imagine, that the quantum of the gain loſt to trade, by a ſtoppage of the *judicious* uſe of credit upon land-property, by its proprietors, will

not

not be very conſiderable: the perſons on the exchanges of London, Briſtol, Paris, Lyons, Amſterdam, *&c.* who have ſold, or mortgaged their land-eſtates to turn merchants, will be found, I ſuſpect, to be mighty few in number; and tho' trading people in Britain are abundantly liberal of credit in the way of trade, becauſe it is every body's intereſt it ſhould be ſo; yet I am afraid the ſums borrowed on the credit of landed-men, to accommodate friends and relations in trade, are by no means ſo extenſive as thoſe friends and relations would wiſh. Compare the ſums borrowed by landed-men to pay their own debts, or to prepare the way for new debts, with the ſums borrowed by them to ſerve their friends in trade, and there will be found a mighty diſproportion betwixt the two.—Again, with regard to the intereſts of trade, as affected by a ſtoppage of the *injudicious* uſe of credit upon land-property; it is obvious, her gains are only deſultory aud tranſitory. For, if a man of £. 1000 a-year, buys betwixt £. 20,000 and 30,000 of the produce of induſtry in one year, he cannot take of her commodities to the extent of £. 1000 every year after, as he was formerly accuſtomed to do.

But is this laſt gain, namely, that ariſing from the diſſipation and ruin of many landed-men, all true gain? I am afraid, it is not: in a political light, it is not very deſirable that the rejoicings of ſome, ſhould be drowned amidſt the groans of others, of their own countrymen. And in a commercial light, if the £. 20,000 or £. 30,000 we are ſpeaking of, has been ſpent in the conſumption of the produce of home-induſtry, the money has done little more than ſhifted hands; or, if it has been ſpent in the conſumption of the produce of foreign induſtry, the money is loſt, not only to him who has ſpent it, but alſo to the nation.

Thus, of the two gains to trade in opening a ſource of credit to men of entailed landed eſtates, the one is trifling in extent, and the other momentary in duration, and of doubtful benefit.

So far the balance hangs on the one ſide. But look at the other: the loſſes to trade, in laying the landed-men open to the indulgence of their ſallies, without any reſtriction from ſettlements at law, are important, laſting, and ſtrike at the very principle on which ſhe ſtands, to wit, the low price of commodity. I flatter myſelf, theſe loſſes have

have been clearly enough pointed out in Chapter Vth of theſe papers: the view of them is to be ſeen in the following irreſiſtible concatenation.—Facilitate the tranſition of land-property, you accelerate diſſipation; for moſt landed-men have nothing to do but to ſpend, and their ideas of ſuperiority, make exceſs in expence even graceful in their eyes: accelerate diſſipation, you raiſe the wages of labour, the height of profits, and conſequently the price of commodity: raiſe the price of commodity, you ſtop exportation, and puſh on importation: do theſe, and ye, even the moſt wealthy nations, ye ruſh into poverty.

Theſe reflections do not ſtrike againſt the advantages of credit in trading-men. There is this ſolid difference betwixt credit in the hands of a trading-man, and in thoſe of a landed-man, that the former always makes uſe of it to become richer, the other almoſt never uſes it, but to make himſelf poorer: in the exertions of the latter, the price of commodity is neceſſarily raiſed: the whole exertions of the former are to keep it low: for the ſole occupation of a merchant, is to endeavour to ſell cheaper than his neigh-

bour, which he cannot do, if the price of his commodity is high.

Wealth, in fixed property of whatever kind, inclines to unbridled diſſipation: locking it up by entails, counteracts this natural inclination: entails are the only contrivance by which the wealth of individuals can be ſecured, and yet the ſtamp of commodity in foreign trade receive no bad impreſſion from the effects of that wealth; they at once protect the old wealth, and yet do not bar the acquiſition of new; foreign trade, which is the only trade that adds to the riches of a nation, made fortunes before to her votaries; and, if the laws do not encourage the deſultory diſſipation of them, ſhe will make them again to thoſe who court her embraces. The only danger is, that ſome of her preſent friends, like too fond a mother, may hurt her by over-careſſing. The ſtores of trade, come from herſelf: Tyre, Athens, Corinth, Rhodes, Marſeilles, Carthage, *&c.* in antient, and Venice, Genoa, Holland, Hamburgh, Dantzick, *&c.* in modern times, as I mentioned before, are eternal monuments that ſhe riſes, extends, ſubſiſts, and flouriſhes by her own reſources, independent of the trifling help of the credit

credit of landed-men. Wherever there is œconomy, induſtry, and well concerted, and well directed enterpriſe, ſhe ſtands on her own foundation, and needs not ſuch feeble and artificial props. Only one fifth of the landed-credit is ſtopt, in Scotland; one half of it, at leaſt is ſtopt in England*: but does England cry out on account of this deficiency, that the hands of trade are tied up and diſabled? No, ſhe ſcorns it.

The reaſon why trade ſubſiſts upon her own credit, independent of the aſſiſtance of landed-credit, is obvious: When I lend to a landed-man, I lend upon the faith of his land, which being viſible, I meaſure, by the value of it, the extent of the credit which I give. But the credit of a trading-man ſtands on a different baſis: When he borrows, the object of the lender's ſecurity, is not ſo much the effects of the borrower, as the confidence which the lender has in his probity, and intelligence in trade: he knows the credit will not be uſed but for mercantile uſes; and he ſuppoſes, that, from the uſe of that money, the perſon, to whom he gives the

* There is likewiſe a great proportion of perſonal credit ſtopped in England, by means of truſt-ſettlements of perſonal eſtates: a thing ſcarcely known in Scotland.

the credit, may be enabled to pay him, and remain with profit beſides to himſelf. But, as the funds of a merchant are inviſible, his credit is ſubject to no certain limitation: it is not uncommon to ſee a beginner in trade with £. 1000 or leſs in his pocket, get credit in a few years for £. 20,000 or 30,000. Hence, as long as trade continues beneficial to traders, there is no danger of their wanting credit: as faſt as ſhe extends with prudence, credit will extend with her, let her ſtrides be ever ſo wide.

III. Thoſe who argue againſt entails ſay, "That the time may come, when too much "of the property of the kingdom, being al- "ready locked up, the permiſſion to entail "more of it, would be no longer any ad- "vantage to the nation, and only a cruelty "to private men who might wiſh to pur- "chaſe lands, but could not be able to find "them."

When that time comes, and not till then, the law ſhould lend its aid, either to diminiſh the extent of entails then ſubſiſting, or at leaſt to prevent entailing for the future. When it does come, we may very well ſuppoſe, that poſterity will take that care of itſelf then, which we are taking of ourſelves now.

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The ſame legiſlative power which gave its ſanction to entails at one period, may withdraw it from them at another.

But I do not imagine that period will arrive for many hundreds of years *. Altho' the whole land-rent of Scotland, which amounts to a million, and the whole land-rent of England which amounts to twenty millions, were entailed, it would be a great miſtake to ſuppoſe, that all the land of England and of Scotland was entailed. The land-rent and the land are very different things: the rents of England are only a third of the annual value or produce of the land of England, and the rents of Scotland are only a fourth of the annual value or produce of the lands of Scotland. The remaining two-thirds in the one part of the king-

* People are ſurpriſed, that ſo conſiderable a proportion as a fifth of the land-property of Scotland ſhould have been entailed in ſo ſhort a ſpace as about 140 years. This deſerves to be accounted for: There have been two ſpecies of entails in Scotland; thoſe before the reign of Charles I. and thoſe ſince. The firſt contained prohibitory clauſes; in the laſt, clauſes irritant and reſolutive were invented. When it was obſerved, that the invention of theſe laſt clauſes gave a ſecurity to entails, which the prohibitory clauſes formerly in uſe did not give, many people threw their ſettlements, by the former form, into the latter. So that many of the preſent entails are only renewals of more antient ones.

The entailed lands of Scotland are poſſeſſed by about 300 proprietors: the entails are above 400 in number.

kingdom, and three-fourths in the other, even of thoſe lands that are entailed, are under no entail. They are not locked up, nor attached excluſively to the perſons of individuals; on the contrary, they paſs to whatever perſon is willing to pay a certain yearly retribution for the enjoyment of them; and if the leaſes of them were converted into feus, or grants of alienation, with the reſervation of juſt rents; they would be a free and unlimited property in whoever had them; juſt as much as the rent, that is, the remaining third, or the remaining fourth of the yearly value or produce, is a property in him who draws that third or fourth. In this view, when we ſay, that one-fifth of the value of the land of Scotland is entailed; we ſhould ſay, that one-fifth of the land-rent of Scotland is entailed; but that little more than one-twentieth of the real value of the land is limited in that manner: and if feus, with the common powers of property, were generally allowed upon entailed eſtates, this language would be intelligible even to infants. Copy-holds and fee-farms in England, rentals and feus in Scotland, and the tenor by which one half of the lands of France and Flanders is poſſeſſed, are inſtances of

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rents iſſuing out of lands to one ſet of men, when the poſſeſſion and property of them is in another, and where ſeparate and independent eſtates belong to both. An entail, as I ſaid in the firſt page of theſe papers, is only a ſecurity that a rent ſhall iſſue out of land for the ſupport of a family. It is perfectly compatible with this, that the poſſeſſion and even the property of the land itſelf may be in other people.

Now, if eſtates of this laſt kind, that is, by fee-farm, feu, or deed of alienation, with reſervation of proper rents, were to become frequent in the kingdom, people would find land enough to purchaſe, though all the preſent land-rent of Britain was entailed: If money, trade and induſtry laſt, there is no impoſſibility that land may afford, of natural produce, in England, annually one-third, and, in Scotland, annually one fourth more than it does at preſent; which, making allowances for the additional expence attending the additional production, would very near double the free land-rent of the kingdom. Upon the ſeparation of eſtates, in the manner I have mentioned, new eſtates would, as agriculture, manufacture, and exportation went forward, grow upon the old

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ones; and all theſe new eſtates would afford field for new purchaſers, altho' all the old land-rents had been locked up. Put the caſe, that all the land-rent of England, as it ſtood in the time of Henry VII. had been entailed, and had continued ſo to this hour, and that the other profits of the land had paſſed into other hands, Would the value of the preſent land-rent of England have been entailed? Not the tenth part of it.

IV. It is ſaid againſt entails, "That, as "the tendency of them is to accumulate "fortune upon fortune, without end, they "exalt particular families too much: that "Britain never had liberty till great fami-"lies were laid low; and that in the riſe of "them liberty would again fall."

This is not an objection to the permiſſion of entailing, but only to the permiſſion of entailing too much in one family; and therefore, if the objection was a good one, it might be obviated by an Agrarian law, diſabling men to hold eſtates above a certain extent under entails.

But, I imagine, ſuch reſtrictions are needleſs; when circumſtances in cauſes are altered, cauſes do not produce the ſame effects as they once did. There is no danger, at this

at this time, that the ſtrength of families can endanger the intereſts either of the Crown, or of the people, as it did in the reigns of Henry VII. and many of his predeceſſors. In thoſe times, land-property gave not only wealth, but a power that was dangerous: The baron had the diſpoſal of his vaſſals in marriage; he had the enjoyment of their eſtates during the minority of the heirs; he was judge within his own territories; he could command the attendance of his people in war; he was inveſted with many other powers and emoluments. But, at preſent, the firſt Duke in the land is as ſubject to the powers above him as the meaneſt peaſant; and the only real dependants he has under him, are a few ſervants round his perſon: Over his tenants he has no power, but that which every creditor has over his debitor; and to the reſt of mankind who ſupport themſelves by adminiſtring to his pleaſures, and impoveriſhing him, he is an object of prey not of terror. The man who fears another at preſent in Britain, on account of his ſuperior riches, is born a ſlave; and deſerves to continue to be one.

It is true, the unequal diſtribution of land-property, may have influence upon po-

litical elections. In England a leaſe for life, gives a title to vote in the election of a member of parliament; and it is not difficult to ſee, that a landlord may have influence over thoſe who hold ſuch leaſes. In Scotland, none vote, but thoſe who are ſuppoſed to have a conſiderable property, and who hold directly of the crown; ſo that the extenſion of property if entailed, does not indeed give more power to the landlord in elections in this laſt country; but then, it diminiſhes the number of voters, already too ſmall; and thereby makes undue influence more eaſy to whoever has the means of it. But there are few evils without a cure, if thoſe who make laws mean to apply it. The cure lies where an antidote to almoſt all the other evils complained of in entails, is to be found. If there were entails for endurance in England, the remedy would be, to permit men of entailed eſtates to give off in fee-farm, or in alienation, with a reſervation of the rent paid at the time of the grant. A ſimilar remedy would remove the objection in Scotland. Grants made in the form of an alienation, with reſervation of a rent-charge, would in Scotland intitle the granters to a vote in elections immediately, if the purchaſe was

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of ſufficient extent; and tho' grants by feus to whatever extent, would not give ſuch immediate title, yet as the Statute 20. G. II. cap. 50. allows the ſuperiors of entailed ſuperiorities, to ſell the ſuperiority to the vaſſal under it, * the feuar would have it always in his power, by a tranſaction with his ſuperior, to hold directly of the crown. The conſequences of theſe remedies applied, would be, that the dependence of a great claſs of voters would fly off in one part of the kingdom; and the number of voters would not be diminiſhed, but, on the contrary, increaſed in the other.

People ignorant of the laws and ſituation of things in Scotland, may be apt to imagine, that the practice of feuing, by extending vaſſalage, would re-eſtabliſh the old feudal dependence: but a vaſſal holding feu or blench of a ſubject in Scotland, is, now that ward-holdings and hereditary juriſdictions are aboliſhed, as independent of that ſubject in every reſpect, as a vaſſal holding feu or blench

* If proprietors of entailed lands, were allowed to feu, it would be neceſſary ſo far to alter or add to the clauſe in the Statute of the 20th of G. II. cap. 50. as to declare, that notwithſtanding the ſale of the ſuperiority to the feuar, the feu-duty or rent ſhould ſtill remain with the original ſuperior, and his heirs under the entail.

blench of the King, is independent of the King. The converſion of leaſes into feus, is the beſt way in Scotland to diffuſe *civil liberty*, by making tenants independent of their land-lords; and it is alſo one of the beſt ways to diffuſe *political liberty*, by paving the way to the extenſion of the number of voters in elections.

V. Thoſe who reaſon againſt the effects of the inequality of fortune created by entails, draw arguments from authority: they object, "That the equal diſtribution of "land among the citizens, was by all the "politicians and philoſophers of antient "Greece and Rome, conſidered as the firſt "and moſt ſalutary of all political laws."

I acknowledge that equality of fortune, in the diſtribution of land, was neceſſary in an antient State; but I ſuſpect, that an Agrarian law, even in entails, and even tho' exceeding high in its rate, could not be in the leaſt uſeful to a modern one.

There are three capital differences betwixt antient and modern circumſtances.

The lower, but the great claſſes, in every nation, are the huſbandmen and the artiſans: Now, all the works of theſe two vaſt claſſes of mankind, were performed by ſlaves a-

among the antients. The almoſt only employments of the freemen, were to attend to the political intereſts of the State at home, and to fight her battles in war. When an individual therefore increaſed his land-property, he not only did no good to his fellow citizens, but he did them much hurt.—He did no good: he could give no new employments to the free by his wealth, becauſe the free worked none; he only increaſed the number of his ſlaves who adminiſtred to all his wants artificial and natural.*—He did much hurt: for in proportion as he increaſed the number of his ſlaves, who were of no uſe to the State, whatever they might be to him, he diminiſhed the number of the citizens: if one man bought the portions of land of a hundred citizens, he perhaps added a thouſand ſlaves to his eſtate, but he took a hundred citizens and ſoldiers from the Republic. In modern times, on the contrary, in moſt parts of Europe, all the lower claſſes of a nation are freemen. From the great body of induſtrious freemen, are taken the huſbandman, the artiſan, the ſailor of the merchant,

* Craſſus had 10,000 ſlaves, all employed in gtatifying the pleaſures of one man.

chant, and the ſoldier of the State. A government muſt be as attentive to the intereſts of the lower claſſes of a nation in modern, as it was indifferent to them in antient times; becauſe, if theſe fail, individuals muſt want bread, the ſociety want arts, commerce want its chief engines, and the State want defence. Now, men of ſmall fortunes, maintain themſelves, and employ very few others; but men of large fortunes maintain thouſands: the former live by ſupplying their natural wants, which are few; the latter create artificial ones, which are many. Small fortunes were of conſequence to an antient State, becauſe they increaſed the number of citizens, that is, of the idle; great fortunes are of conſequence to a modern manufacturing State, becauſe they increaſe the quantity of employment, that is, the numbers of the buſy. But it is the wealth which gives the employment, not the numbers of hands which diſpenſe it; for the wealth of the rich wherever lodged, is conſtantly falling in modern times into the pockets of the poor; and it ſignifies nothing to theſe, whether twenty thouſand pounds a-year fall amongſt them from one or from twenty hands. If indeed the man worth

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twenty thouſand pounds a-year is allowed, by the laws, to diſſipate betwixt £. 400,000 and 500,000 in two or three years, the poor muſt be hurt; becauſe they cannot ſupply his demands for their induſtry the few years that he preſſes for it, and they loſe his employment all the years after. But if this deſultorineſs (if I may be allowed the expreſſion) in demand, is guarded againſt by proper laws and polities, inequality of fortune can never be hurtful to the induſtrious: Twenty plentiful fortunes will create more idleneſs, and not only more waſte in home-conſumption, but alſo more importation of foreign commodities, than one great fortune equal to the twenty in one hand. A man of £. 20,000 a-year, will have perhaps fifty idle ſervants about him; but twenty men of £. 1000 a-year each, will have a hundred and fifty amongſt them; and if the former gets more expenſive articles of dreſs from France, buys more fine Italian pictures, and drinks more delicate and high priced wines, than the latter; they, on their part, will conſume more of the linens and cambricks of the Netherlands, France and Germany, bring more middling pictures from Holland, and drink more of

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the ports of Portugal: in ſhort, the demand for the works of induſtry will be the ſame in both, though the objects of that demand will be different. Both will hurt the intereſt of the induſtrious, if the laws indulge them in a deſultory expence; neither of them will hurt it, if they are limited to a regular one.

The ſecond difference betwixt antient and modern times is, that in antient times, lands alone compoſed the wealth of private perſons; and there was no ſuch thing as a moneyed diſtinct from a landed intereſt. Hence, whoever had a great portion of land-property, had a ſuperiority over the reſt of his fellow citizens without any thing to balance it. But the equal diſtribution of land-property in modern times, and eſpecially in Britain, could not inſure equality among the citizens; becauſe there is a great moneyed intereſt which muſt always create great inequality of fortune. The land-rent of England is ſuppoſed to be twenty millions. Join the intereſts paid to the public creditors, and to private creditors who have either mortgages upon land, or money lent out upon perſonal ſecurity, to the profits made by the merchant upon imports, upon ex-

exports, and in the courſe of interior commerce, computed at ten *per cent.* and it will be found, that the revenues of the moneyed are greater than thoſe of the landed-men in Britain. Or, attend to the ſituation of individuals; you will find that the moneyed-men are generally the moſt opulent citizens; and that people with large rent-rolls in their pockets are often in low circumſtances, and at the mercy of thoſe who have not an acre. I remember ſome years ago to have heard, that there were thirty Commoners in England, who could afford to ſpend £ 7000 a-year, and that of theſe there were eighteen who belonged to the city.

There is yet a third, and, in my opinion, an important difference, in the effects of equality of fortune betwixt antient and modern times. In antient times, the fine arts might flouriſh without great inequality of fortune; becauſe a man might have his painters, ſculptors, muſicians, and other artiſts in his own family, that is, among his own ſlaves, without a ruinous expence to himſelf: But the expence of theſe artiſts is ſo high in modern times, that nothing but great inequality of fortune in the citizens can ſupport it. Unleſs there is a rank of

men in a nation able to encourage the arts without ruining themſelves, the arts will flouriſh in no modern ſtate. Look at the fates that have attended them in modern Europe, and the truth of this obſervation will be ſeen: the ſplendor of prieſts and princes in Italy, the wealth of individuals in the Netherlands, the generoſity of Louis XIV. and his courtiers, and the magnificence of the Engliſh, have been the true cauſes of the efforts towards a renewal of the fine arts in different nations, and at different periods. But as theſe arts make a new creation upon earth, as they give a pleaſure to human life that makes it anticipate the pleaſures of a higher ſtate, and as they reflect ſplendor on a nation, a nation can hardly pay too dear for them. Pericles, Auguſtus, Leo X. and Louis XIV. not only gained the admiration and reſpect of ſtrangers to their countrymen, but drew their perſons to ſpend their money among them: and the laſt of theſe rulers of nations, by giving the tone to the reſt of Europe, commanded their faſhions; and thereby created a thouſand articles of manufacture for his ſubjects.

The quality and value of the ſame law is different according to the difference of circum-

cumſtances: an Agrarian law, which might have been uſeful in the times of the Gracchi at Rome, would be not only uſeleſs but hurtful in the eighteenth century in England.

There are other objections made to entails more eaſily anſwered.

VI, It is ſaid, "Entails injure creditors." But, for the ſame reaſon, dowers, courteſies, jointures, truſt-ſettlements, annuities, and, in general, all eſtates for life ſhould be prohibited by law; for, through all theſe, creditors may be injured.

Scarce any people have ſo little reaſon to complain of their entails in this reſpect as the Scots, ſeeing there is a neceſſity in Scotland of recording them in a public record, which any one may have inſpection of for a ſhilling.

The vulgar errors about entails are innumerable: The ſums loſt to creditors in Scotland by entails, for a century paſt, are quite trifling, in compariſon of the immenſe ſums loſt to them, by truſt given to men whoſe eſtates have not been entailed. Ideas of honour oblige moſt heirs to entailed eſtates to pay their predeceſſor's debts. Beſides, people meaſure the credit they give by the funds of their debtor; the credit given upon

on an entailed eſtate is limited, but upon an eſtate that is not entailed, it is unguarded and unlimited. The long train of *poſtponed* creditors (as they are in Scotland very emphatically called) in every ranking before the Court of Seſſion, affords a lamentable proof, how much more, creditors ſuffer from the unentailed, than from the entailed part of the land-property of their countrymen.

VII. It is ſaid, "Entails breed diſobedi-"ence in children to parents." But, for the ſame reaſon, all ſettlements in marriage articles, which bind up the eſtate to the iſſue of the marriage, ſhould be prohibited by law; and yet theſe are allowed by the laws of all cultivated nations in the univerſe. That people is paſt redemption in profligacy, where the general manners are ſuch, that the ſenſe of duty is unavailing to ſupport the moſt pleaſing of all dependencies, and where it can be held together no other way than by intereſt and terror. It is in vain to attempt to reclaim a people by artificial dependencies, if it be true, which it ſeldom is, that they are in general accuſtomed to break thro' the more ſacred ties of natural ones.

VIII. It is ſaid, "It is abſurd that a man "ſhould have a power to entail a very ſmall "eſtate."

" eſtate." If it is ſo, the law might prohibit entails of ſmall eſtates, without hurting thoſe of large ones: But indeed I ſee no harm to the State from ſuch ſmall entails. In the firſt place, they will not be numerous. In the next place, if the proprietors continue upon the eſtate, they will ſoon fall into the condition of happy farmers, inſtead of unhappy Gentlemen: And, in the laſt place, if they alienate or feu them off with reſerved rents, the care of the land will fall into hands more able to cultivate it; and the oginal proprietor will find himſelf nothing the worſe for the reſerved rent, however ſmall. It is an idle political expectation, that every individual ſhall have his fortune modelled juſt according to his wiſh.

IX. It is ſaid, " It is very barbarous that " younger children of men of entailed e- " ſtates ſhould be ſet into the world with- " out fortunes." But alſo, it is very barbarous, that the law of primogeniture ſhould be the law almoſt all over Europe: the beſt general laws are attended with particular evils. If men of entailed eſtates were allowed, by law, to charge them with annuities for life to their younger children, to a certain extent, as propoſed in the laſt chapter of theſe papers, the objection would fly off.

X. It

X. It is ſaid, "That entails are unjuſt, "in reſpect many of them exclude female in "competition with the male ſucceſſion." The laws of many nations, however, exclude female ſucceſſion altogether: But if the State has any intereſt in this objection, which I much doubt, it is eaſy to remove the grievance by law, without deſtroying entails in other reſpects. In this caſe, it would be neceſſary to preſerve the intereſts of male-heirs now exiſting. Mercy to one muſt not be ſhewn at the expence of cruelty to another.

CHAP. VIII.

Reflection with regard to England.

"ENGLAND has no entails for en- "durance; yet her laws are wiſe, and her ſtate is great."

To a man who has ideas of decorum and of reſpect for the general cuſtoms and ways of thinking of great and wiſe nations, this topic is delicate: I feel it to be ſuch.

I have been told by ſome Gentlemen of the *other* part of the kingdom, that the ſureſt way to get their countrymen to make havock of the laws of *this* part of it, on any branch of polity, is, to preſume to ſuggeſt, that the laws of the

the ſouthern contain not all the advantages of the laws of the northern part of the iſland on that branch of polity. The obſervation does not, I ſhould think, involve in it all the decorum and reſpect which is due to the wiſeſt and greateſt of nations. I ſhould rather be apt to ſuppoſe, that thoſe who chiefly frame the laws of Britain, proceed on *manly* and liberal, not on *childiſh* and illiberal principles.—However, I am extremely ſenſible, that nothing can be more improper, than for one to propoſe innovations upon the laws of another country, at the very time when he is doing all he can to preſerve from innovation the laws of his own.

Were it not for this, I would ſay, that, if entails for endurance were authoriſed by law in England, inſtead of the preſent Engliſh entails which are attended with ſome diſadvantages, and of the preſent Engliſh truſt-ſettlements which are attended with many more, the following conſequences would perhaps follow: the lawyers, from habit and profeſſion, would complain; ſome theoriſts and abſtract men would join in the complaint; moſt of the old nobility and gentry, and many of the new, would rejoice in the thought, that it was put in their power to make the duration of their families as ſtable,

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as that of a conſtitution they ſo paſſionately love: the people would ſtand neuter, becauſe the meaſure affects not them immediately; and if prejudice endeavoured to ſtir them up to oppoſition, they would not underſtand its language on matters of abſtraction and diſtant conſequence.—In time the price of lands would riſe, and thereby the landed-men become richer.—The intereſt of money would ſink; and thereby public credit be ſtrengthened, and private trading-credit made eaſier; the latter of which would enrich the merchant, and the former prevent the State from becoming poorer.—Commerce, both inland and foreign, would extend when her own funds were not withdrawn from her own hands to the purchaſe of land.—Home-conſumption would diminiſh, importation decreaſe, exportation increaſe, and a proviſion be made to ſupply the moſt unbounded demands of our own Colonies.—A wealthy vigorous Nobility and Gentry would ariſe, firm in their condition, the defence of the nation, the pillars of all the three parts of the conſtitution: the gentlemany ideas would ſpread themſeves from rank to rank through the kingdom, and Britain would feel herſelf not only the wealthieſt, but the moſt reſpectable of nations.

Theſe

Theſe ſeparte conſequences are concluſions, from ſeparate principles, endeavoured to be eſtabliſhed in the courſe of the foregoing papers. If the principles are ſound, theſe conſequences *muſt* follow: if the principles are not ſound, I acknowledge theſe conſequences are but imaginations; I mean with regard to England: for, with regard to Scotland, they do now, and for a long time probably will be, very ſolid realities.

There are two well marked differences betwixt the circumſtances of England and Scotland, which make entails proper in the latter, even though it was doubtful if they are proper in the former of theſe countries. The firſt is, that in Scotland there is more land to ſell than there are purchaſers to buy, which is not the caſe in England: The other is, that there is a great deal leſs trade in Scotland in proportion to England, and therefore, there is a leſs proportion of credit required to aſſiſt trade than is required in England. When the circumſtances of both countries ſhall come to be the ſame, reaſoning from the ſtate of the one to that of the other will be fair: but till then, it is not.

CHAP. IX.

Rectifications of Scotch Entails.

IN the beginning of the preſent conſiderations, a diſtinction was made betwixt entails, and the conditions contained in them: Theſe papers ſhall therefore conclude with a ſuggeſtion of ſuch rectifications in the conditions of the preſent and future entails of Scotland, as legiſlation may make, without injuring either individuals or the public, and as it ought to make for the ſake of both.

1. A condition very common in Scotch entails is, That the tenant in tail ſhall not give a jointure to his wife upon the entailed eſtate: the conſequence of which is, that no woman commonly provident will marry ſuch tenant in tail: he muſt therefore either marry diſadvantageouſly, which counteracts the very view of the maker of the entail; or he muſt not marry at all: and then the State ſuffers in the intereſts of population. In the ſame manner, heireſſes are, by many entails, debarred from giving liferents to their huſbands.

Theſe conditions ſhould be declared null by law, and all people of entailed eſtates ſhould

ſhould be impowered to provide their ſpouſes in liferents to ſuch proportions of their eſtates as legiſlation ſhall think proper, and likewiſe to make proviſions for the wives of the apparent heirs of entail.

2. The tenant in tail is generally prohibited to let a leaſe for a longer term than a few years, in ſome caſes not more than three: the conſequence is, no farmer will make improvements upon ſuch leaſe; becauſe he cannot fail to ſee, that another will, in a few years, reap the benefit of them; hence the State ſuffers in the intereſts of agriculture. It is coarſely but juſtly ſaid by the country-people, That a condition of this ſort in an entail is a padlock upon the plough.

Theſe conditions ſhould be aboliſhed and prohibited, and every tenant in tail ſhould be authoriſed to grant leaſes for ſuch term of endurance, or of lives, as the legiſlature ſhall think expedient. In this caſe leaſes, for great length of time, ought to be ſubject to the neceſſity of recording.

But then tenants in tail ought to be diſabled to let, for a longer time than the life of the tenant in tail, the principal manſion-houſes, and grounds round them which have commonly been kept in the poſſeſſion of the family.

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3. The tenant in tail is diſabled to make proviſions for his younger children, not otherwiſe provided for. Hence theſe younger children are thrown a burden upon ſociety.

If the legiſlature was to allow men of entailed eſtates, to charge them with fortunes to younger children; theſe fortunes would in time, eat out entails: and therefore, the proper regulation would be, to enable ſuch men to appoint certain portions of the rents, for life-annuities to their younger children; and theſe annuities might be made convertible, at ten years purchaſe, into capitals, at the deſire, either of the heir, or of the younger children; if at the deſire of the heir, it behoved him to pay down the money inſtantly; if at the deſire of the younger child, it would be neceſſary that he ſhould be enabled to obtain a ſequeſtration of a part of the rents of the eſtate in order to recover his capital.

It would likewiſe be proper, that the tenant in tail, ſhould have a power to make ſimilar proviſions for the younger children of the apparent heir of entail.

But one limitation is required: relief is only to be given where relief is needed. In caſes where the tenant in tail leaves at his death

death a ſeparate eſtate, ſufficient to make a proviſion for each younger child, to the extent of a year's rent of the entailed eſtate; or where, during his life, he has provided the younger child in a fortune equal to a year's rent of the entailed eſtate; it would be proper to debar him from laying any additional burden upon the heir of entail, on account of younger children.

4. The tenant in tail is prohibited to exchange grounds for grounds, of equal or ſuperior value. Hence, the moſt advantageous ſituations for villages, for water-machines, for harbours, for plantations, and various ſeats of trade and manufacture, may be loſt to Scotland; nay, ſome entailed lands run up to the very gates of our great towns.

It would be proper that tenants in tail ſhould be enabled to exchange grounds for grounds, of equal or ſuperior value: and, to prevent frauds, this ought to be done under the direction of the Court of Seſſion.

5. The tenant in tail is prohibited to ſell land, for the payment of that very debt which the maker of the entail has left upon him. Hence, he may be diſtreſſed for a debt, not contracted by himſelf; nor has the creditor any immediate way of making

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the debt effectual, but by ſeizing his yearly funds, from a ſpeciality in the law of Scotland, that the creditor cannot force a ſale of his debitor's land-eſtate, unleſs he proves the whole eſtate to be bankrupt.

In this caſe, the creditor ought to have the benefit of an action before the court of Seſſion, to force a ſale of ſuch a part of the entailed eſtate as is equivalent to his debt.

6. The tenant in tail, in moſt entails, is prohibited to feu, tho' for the moſt beneficial feu-duty; or to alienate, tho' with the reſervation of the moſt beneficial rent-charge. Both prohibitions counteract the original intention of the entail, which was the ſecuring an adequate rent for the ſupport of a family; and which rent will be much better ſecured by a prudent feu-duty, or reſerved rent-charge, than in any other way.

This is the moſt important article of any: they are bad friends to their country, who heſitate a moment in aſking from Parliament, a liberty for men of entailed eſtates, to grant feus at the then rent, at the time of the feu; and to alienate, with the reſervation of a rent-charge equal to the then rent, at the time of the alienation. The intereſts of the preſent proprietors of entailed eſtates, of

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agriculture, and of both civil and political liberty, call equally for this relaxation in the conditions of entails.

If the power of feuing and alienating, with the reſervation of rent, was granted, the two limitations mentioned in page 75, and, for the reaſons there given, would be neceſſary to be added: to wit, firſt, That each ſucceſſor ſhould be enabled to feu or alienate only a certain proportion, as a third, fourth or fifth of the eſtate in his turn: and 2dly, That the principal manſion-houſes, with a certain portion of the entailed eſtates round them, ſuch as a third or a fourth, ſhould never be ſubject to be feued or alienated.

Further, the clauſe in the Statute 20. George II. chap. 50. whereby the ſubject-ſuperior, where the ſuperiority is entailed, is impowered to ſell the ſuperiority to the vaſſal under it, would require to be ſo far altered, that, in caſe of the alienation of the ſuperiority to the vaſſal, the rent or feu-duty, ſhould be declared to be ſtill reſerved to the original ſuperior, as mentioned in page 91 *.

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* There are precedents, for ſimilar arrangements in the Statute-book of Scotland: by the act 14. Charles I. parliament 1. the ſuperiorities of Kirk-lands erected, were taken from the titulars, and veſted in the King; but the feu-duties were reſerved to the titulars.

I have heard it objected, that as the proprietors of the entailed eſtates would get large ſums, for converting their leaſes into feus, ſuch converſions would be defeats, to a certain extent, of the entail; and that the money obtained for the feu would oftener be thrown away in prodigality than laid out upon improvements. If this is ſo much to be dreaded, the proviſions in the * ward-holding, and the † juriſdiction-acts, might be repeated. By theſe Statutes, the money got for entailed ſuperiorities, and entailed juriſdictions, was directed to be laid out in purchaſes, in terms of the entail, or in clearing debts which affected the entailed eſtate. And, in order to expiſcate and aſcertain the ſum paid for the feu, it might be enacted, that the feu-contract, ſhould bear the true ſum paid for the feu, and that any concealment ſhould create a forfeiture of the feu and money to the feuar.

7. Tenants in tail, are not allowed to charge their eſtates, with debts equivalent to the improvements they have made upon them. This is a great check upon the enterprize and induſtry of men of entailed eſtates. But,

* Statute 20. George II. chap. 50.

† Statute 20. George II. chap. 43.

But, was this indulgence granted, the common objection to entails, that they ſtop the cultivation of the land by the landlords, would be removed.

The danger of this indulgence would be, that it might give room for frauds in aſcertaining the value of the old rent and of the new improvements. But this is not without remedy: a man intending to make improvements might be impowered to bring a proof of his rent before the Court of Seſſion, as he is allowed to do in valuing his tythes; and when he had made his improvements, he might be empowered to bring a ſecond proof of the additional rent before the ſame court, which might thereupon intitle him to charge the eſtate, to the value of that improved rent. In both caſes, it would be proper, that the heirs of entail ſhould be called in the action.

It is thought by ſome, that the benefit of charging with debt, in proportion to the improvement of the rental by money laid out, ſhould be extended to tenants in tail now living, and who themſelves have made improvements. The public has no intereſt on either ſide of this arrangement: the tenant in tail has an intereſt for it; the heirs of en-

tail have an intereſt againſt it; and yet, I am confident, there are very few of theſe laſt, who would repine at ſo equitable and good natured a favour, ſhewn by the public to many of the preſent tenants in tail, in return for a ſpirit of enterprize, in which the public is always a gainer *.

8. The laſt correction which is loudly called for in the law of entails, is with regard to the effect given to the irritant and reſolutive clauſes. By theſe clauſes, which enable the next heir to take the eſtate from the proprietor, upon his running in debt and the attachment of the creditor, a father and a ſon conniving together, may cheat the creditors; or, what is worſe, the ſon may cheat both them and his father.

This, as an outrage equally upon the laws of nature, and of juſtice, ſhould be wiped from the law-books of a country.

If theſe corrections were made upon the conditions of entails, they might perhaps ſuper-

* I have heard it propoſed, that the proprietor of an entailed eſtate ſhould be intitled, under authority of the Court of Seſſion, to charge it with the expences of law-ſuits laid out in defending it, on this principle, that, if the perſon is intitled to charge the eſtate who improves it, much more is he intitled to do ſo who preſerves it.

ſuperſede the imaginary neceſſity of letting them die out.

The ſuggeſtion of letting the entails of Scotland die out, is ſaid, whether truly or not I know not, to have proceeded from one, who, ſitting high in the law of the ſouthern part of the kingdom, is equally maſter of the laws of the other part of it, which gave birth to himſelf, and who joins all the powers of imagination and of eloquence to quick acute penetration, and to ſolid judgment. Could any human authority have made me give up my own reaſon, it would have been his: but this is a compliment which he would neither have aſked, nor could I have granted *. —Could the arguments which have convinced me, convince him, that the ſcheme of letting the Scotch entails die out, is improper, I ſhould be vain indeed!

* Since printing the firſt edition, the author finds it was an error in any one, to impute the above ſcheme to the noble perſon here alluded to.

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